

**COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	2017HCC047
<b>DA Number</b>	DA2017/01291
<b>LGA</b>	Newcastle
<b>Proposed Development</b>	Demolition of dwellings and outbuildings, erection of six-storey residential flat building (affordable housing) including 50 residential units, ground floor cafe, associated parking and site works
<b>Street Address</b>	118-124 Brunker Road, Adamstown
<b>Applicant/Owner</b>	ABL Pty Ltd
<b>Date of DA lodgement</b>	13 October 2017
<b>Number of Submissions</b>	1 <sup>st</sup> Notification period - nine submissions 2 <sup>nd</sup> Notification period - two submissions
<b>Recommendation</b>	Approval
<b>Regional Development Criteria</b>	When the application was lodged, the proposal was listed within Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> as development for which regional panels may be authorised to exercise consent authority functions of councils, being Private Infrastructure and Community Facilities (affordable housing) with a capital investment value of more than \$5 million
<b>List of All Relevant Section 4.15 (1)(a) Matters</b>	<p><b>Environmental planning instruments: s4.15(1)(a)(i)</b></p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>• State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>• Newcastle Local Environmental Plan 2012</li> </ul> <p><b>Development Control Plan: 4.15 (1)(a)(iii)</b></p> <ul style="list-style-type: none"> <li>• Newcastle Development Control Plan 2012</li> <li>• Section 94A Development Contributions Plan 2009</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<p><b>Appendix A</b> - Plans and elevations</p> <p><b>Appendix B</b> - Schedule of Conditions</p> <p><b>Appendix C</b> - Urban Design Consultative Group Comments</p> <p><b>Appendix D</b> - Letter from Affordable Housing provider</p>

<b>Report prepared by</b>	Newcastle City Council
<b>Report date</b>	25 October 2018

**Summary of s4.15 matters****Yes**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Legislative clauses requiring consent authority satisfaction****No**

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?

*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****Yes**

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?

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions?

**No**

*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**

*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

The development application (DA2017/01291) has been lodged with Council, seeking consent for the demolition of single dwellings and associated structures, erection of a six-storey residential flat building comprising commercial units on the ground level and 50 units. The residential units are to be used for affordable housing and are proposed to be managed by Compass Housing.

The proposal was placed on public exhibition for a period of 14 days in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) and Section 8 of Newcastle Development Control Plan 2012 (DCP). Nine submissions were received during the first notification period and two submissions were received after the second notification period.

The key issues raised in the assessment relate to:

- Bulk and scale
- Setbacks (DCP and Apartment Design Guide compliance)
- Solar access and overshadowing
- Clause 4.6 (Newcastle Local Environmental Plan 2012) variation request for the building height

The application is recommended for approval as the proposed development will have a positive social and economic benefit for the local and broader community by providing increased housing choice within the area. The use of the site as affordable rental accommodation is permissible in the zone and is in the public interest.

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, at the date of lodgement of the application, the proposed development was listed within Schedule 4A of the EP&A Act, being private infrastructure and community facilities (affordable housing) that have a capital investment value of more than \$5 million. The proposed development has a capital investment value of \$12,109,365.

## 1. INTRODUCTION

This report provides a detailed overview of the development proposal for erection of a six-storey residential flat building (affordable housing) with a ground floor commercial component at 118-124 Brunker Road Adamstown.

The development application is reported to the Hunter and Central Coast Joint Regional Planning Panel (JRPP) in accordance with (now repealed) Clause 23G and Schedule 4A of the EP&A Act, as the development is a type classified as private infrastructure and community facilities (affordable housing) with the value of works being \$12,109,365.

## 2. BACKGROUND

Council's Urban Design Consultative Group (UDCG) reviewed the proposal prior to the development application being lodged on 19 July 2017. The application was also reviewed by the Group during the assessment of the development application on 19 October 2017 and 21 February 2018, following several amendments to the proposal to address a number of design concerns raised by the UDCG and Council officers.

## 3. SITE DESCRIPTION

The site has an area of approximately 1,969.6m<sup>2</sup> and has a gentle slope from south west to the northeast. The site is made up of four rectangular shaped single lots and is known as 118, 120, 122 and 124 Brunker Road Adamstown (Lot 1 and Lot 2 in DP100683 and Lot 1 and Lot 2 in DP304669). The site has 39.23m frontages to Brunker Road and an unnamed laneway at the rear (refer to Figure 1 below). Four single-storey dwellings with associated garages and outbuildings are currently on the site.

**Figure 1:** Shows an aerial view of the site (Source: City of Newcastle mapping data)



## 4. PROPOSAL

The original application sought consent for:

- Demolition of all dwellings and associated structures
- Erection of a six-storey residential flat building (affordable housing) comprising:
  - 47 apartments (10 x one-bedroom and 37 x two-bedroom)
  - Ground floor commercial cafe
  - 40 car parking spaces
- Landscaping works throughout the communal and public areas within the development
- Two vehicle crossings (entry and exit crossings) onto rear laneway
- Ancillary building and site works

The proposal was amended in response to concerns raised by Council's Urban Design Consultative Group and issues arising from public submissions. The amended proposal involves:

- Demolition of all dwellings and associated structures
- Tree removal
- Erection of a six-storey residential flat building (affordable housing) comprising:
  - 50 apartments (11 x one-bedroom and 39 x two-bedroom)
  - Ground floor commercial cafe
  - 36 car parking spaces within two secure garages
- Landscaping
- Associated site works

The amended proposal was notified in accordance with Council's public participation policy and two submissions were received, which are discussed later in this report.

Refer to **Appendix A** for the floor plans and elevations of the proposal.

## 5. PLANNING ASSESSMENT

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

#### 5.1.1 Section 23G (now repealed) – Joint Regional Planning Panels

Section 23G and Schedule 4A (both now repealed) of the EP&A Act require the JRPP to determine applications for affordable housing with a capital investment value over \$5 million.

The capital investment value for this proposal is \$12,109,365 and is therefore referred to the Hunter and Central Coast Joint Regional Planning Panel for determination.

## 5.1.2 Section 4.15(1) Evaluation

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

### 5.1.2.1 *The 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 (as at the date of lodgement of the application) of the SEPP require the JRPP to be the determining authority for development included in Schedule 4A (now repealed) of the EP&A Act. This includes applications for affordable housing over \$5 million.

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

State Environmental Planning Policy (Building Sustainability Index: 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 dwellings).

The provisions of the SEPP apply to the current development proposal. The applicant submitted a BASIX Certificate which lists the commitments to achieve appropriate building sustainability. A condition is included in the recommended conditions of development consent to require that such commitments be fulfilled.

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

Council's records do not suggest that any previous contaminating activity has occurred on the site.

#### State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65)

This policy applies to the development of new residential flat buildings and aims to improve the quality of residential flat development. The SEPP requires the consent authority to take into consideration the advice of a Design Review Panel, the design quality of the development when evaluated in accordance with the design quality principles and the Apartment Design Guide (ADG). An assessment of the development under the design principles is provided below.

The application is accompanied with a Design and SEPP 65 statement, which addresses the nine design quality principles and design guidance of the ADG.

Council has an independent Urban Design Consultative Group (UDCG), who provided comments on the application, with extracts of the main points provided below. The proposal was considered by the UDCG on three occasions, 19 July 2017 (Prior to DA lodgment), 19 October 2017 and 21 February 2018. A full copy of the UDCG's comments from each meeting is provided in **Appendix C**. Table 1 provides the main comments from UDCG, the applicant and Council in response to the design principles.

**Table 1:** Assessment against the nine Design Quality Principles under SEPP 65

<b>Principle 1: Context and Neighborhood Character</b>	
<p><i>UDCG comments 19/10/2017</i></p> <p>The subject site is located on the north-western side of Brunker Road, an area currently occupied by freestanding weatherboard cottages of Inter War appearance. The adjoining site to the north-east is occupied by 2 storey townhouses stepped along the eastern boundary of the proposed development site. Sites to the west are occupied by narrow fronted weatherboard residences of early 20<sup>th</sup> Century construction. The proposed development represents one of a number of large residential flat buildings proposed in Brunker Road in response to recent zoning changes. The neighborhood will be substantially changed by this new phase of construction.</p> <p><i>UDCG comments 21/02/2018</i></p> <p>The application has previously been reviewed by the panel on a number of occasions with multiple issues having been identified as being of concern, including particularly, the very substantial bulk and scale of the proposal, and its relationship with the existing townhouse and villa-unit developments adjacent. The architect and proponent have made a consistent effort to address each of the issues raised, with some design responses being more successful than others, but generally with incremental improvements on each iteration.</p>	<p><i>Applicant comments - 03/08/2018</i></p> <p>The proposal has been designed to provide a quality affordable housing development that responds to and utilises the advantages of its context within the Adamstown Renewal Corridor and the greater area.</p> <p>Additionally the proposal responds to Principal 1 by providing:</p> <ul style="list-style-type: none"> <li>- commercial frontage &amp; communal meeting room and external spaces to Brunker Road.</li> <li>- The residential entry position is located to retain existing pedestrian pathways, create better address to the street for the various uses and provides comfortable walking distances and access regimes.</li> <li>- An increased diversity for the Local Centre, with greater activity, passive surveillance, commercial and public transport patronage.</li> </ul> <p><i>Council comments</i></p> <p>Noted - Design amendments are considered satisfactory. Further discussion regarding separation is located within Table 2.</p>
<b>Principle 2: Built Form and Scale</b>	
<i>UDCG comments 19/10/2017</i>	<i>Applicant comments</i>

The proposed development is of six stories. The ground floor contains car parking, a commercial café linked to an open communal space and two accessible apartments off the main lobby entry. Floors above are set about a first floor court /communal space to the center of the western elevation. Upper floors are partially cantilevered over the communal court.

In response to previous assessment, the proposal has incorporated two lift cores improving overall circulation.

As one of the initial developments in Brunner Road under new zonings the development will initially provide a dramatic change in scale, an aspect requiring close adherence to setback requirements.

*UDCG comments 21/02/2018*

The proposed development is of six stories. The ground floor contains car parking, a commercial café linked to an open communal space and two isolated accessible apartments off the main lobby entry. The lobby continues as a long corridor to two separate lift and stair cores both also directly accessed from the ground floor carpark.

Floors above are set about a first floor court to the center of the southwestern elevation. Apartments about the court have been relocated into a former undercroft below upper floor levels. The panel noted this as an improvement to the previous plan form and recommended that the court have limited access as a more densely landscaped area rather than function as a communal area. Dual common rooms are now provided at roof level.

As one of the initial developments in Brunner Road under new zonings, the development will initially provide a dramatic change in scale, an aspect requiring close adherence to setback and height requirements.

An appropriate bulk and scale of the development is proposed after extensive urban design and shadow analysis reviews.

The proposal responds to Principal 2 as follows:

- The height and scale of the proposal provides an appropriate response for the Adamstown Renewal Corridor.
- It has distributed the gross floor area in a way that provides a better outcome in terms of massing by creating a 3 & 4 storey base with the upper levels significantly setback from all boundaries to create better transition to existing and future developments.
- Massing which provide setbacks to the north-east and south-west boundary which relates to and respect the building separations prescribed by the Apartment Design Guidelines.
- Residential amenity by its orientation to the north-east and north-west allowing for solar access to the maximum number of units, and other positive outcomes.
- U-shaped plan form to maximise solar access and cross-ventilation.
- The building form is segmented into a number of distinct elements to integrate the development scale with its context, including a predominantly three-storey base with the exception of the south-east corner which is four-stories.
- An increased setback from the rear lane, particularly the south-west corner of the building further facilitates the transition in residential zonings and scale across the lane.
- The proposed built form creates a variety of passive and active landscaped spaces including landscaped courtyard spaces to Ground Level Café and apartments, landscape zones within setbacks to Brunner Road and the rear lane and landscaped terrace/roof spaces at level 1 providing an aesthetic outlook from the apartments and adjacent properties. Small landscape planters are also proposed adjacent the communal roof spaces.
- Living areas have access to views, enhancing character and amenity and providing a sense of security via passive surveillance.



	<ul style="list-style-type: none"> <li>- The apartments are clearly articulated and robust in terms of internal amenity by designing a large number of apartments as corner apartments and through-apartments and orientating as much as possible to the north-east and north-west.</li> </ul> <p><i>Council comments</i></p> <p>Following advice from the UDCG, the application has been amended on the basis of a flexible approach in applying ADG setback controls, in combination with the application of building envelopes detailed in DCP provisions for the Adamstown Renewal Corridor.</p> <p>The zero setbacks along Brunner Road frontage is considered to be acceptable given that the interface at ground level will contain a commercial element. There is an element of variation to the setback above 8.5 metres, with two levels being relocated from the rear of the site.</p> <p>The revised solar impact study demonstrated additional overshadowing to private open space areas of the adjacent residential properties. The impact of the building on the overshadowing of adjoining residential properties is further discussed within <i>section 3.03 - Residential Development</i> of the Newcastle DCP 2012 and is considered satisfactory.</p> <p>Additionally the relocation of massing to the front of the site improves the massing from the rear elevations and allows a transition into the laneway and R3 Medium density zone sites.</p>
<b>Principle 3: Density</b>	
<p><i>UDCG comments 19/10/2017</i></p> <p>The development at 1.85:1 exceeds the maximum FSR of 1.5:1. The additional floor space is proposed on the basis of a 0.5:1 bonus for affordable housing.</p> <p><i>UDCG comments 21/02/2018</i></p> <p>The proposal remains at an FSR of 1.879: exceeding the maximum FSR of 1.5:1. The additional floor space continues to be justified on the basis of a 0.5:1 bonus for affordable housing.</p>	<p><i>Applicant comments</i></p> <p>The proposed residential density proposed corresponds with the gross floor area and the building envelope requirements under the planning controls.</p> <p>The proposal responds to Principal 3 by providing:</p> <ul style="list-style-type: none"> <li>- Consistency with the LEP, regarding provision of a compatible mix of business and housing in accessible locations.</li> <li>- The proposal responds to the desired future density and scale of the Adamstown Renewal Corridor.</li> <li>- An FSR of 1.99:1 which is within the FSR of 2:1 in accordance with the LEP, including a Bonus FSR of 0.5:1 for</li> </ul>

	<p>affordable housing.</p> <ul style="list-style-type: none"> <li>- Apartments are all in keeping with the minimum size and mix recommended by the Apartment Design Guide, SEPP (Affordable Housing) and DCP.</li> <li>- The density of the development is considered sustainable within the existing area in consideration of the context, proximity to public transport, services, and infrastructure, social and environmental qualities of the site.</li> </ul> <p><i>Council comments</i></p> <p>The application seeks to utilise the benefits of the FSR bonus for affordable housing contained within the SEPP (Affordable Rental Housing) 2009 and is supported.</p>
<b>Principle 4: Sustainability</b>	
<p><i>UDCG comments 19/10/2017</i></p> <p>Previous recommendation that top-floor apartments include natural light and ventilation to inner bathrooms has yet to be incorporated in the application. Opportunity for solar panels on the expansive roof is also identified as a means of improving sustainability, particularly for affordable housing.</p> <p><i>UDCG comments 21/02/2018</i></p> <p>Previous recommendation that top floor apartments include natural light and ventilation to inner bathrooms has not yet been incorporated in the application. Opportunity for solar panels on the expansive roof continues to be a recommendation for improved sustainability, particularly for affordable housing.</p>	<p><i>Applicant comments</i></p> <p>The proposal aims to promote a high standard of environmental performance incorporating the use of ecologically sustainable development principles including:</p> <ul style="list-style-type: none"> <li>- Appropriate housing density to maximise use of public transport infrastructure due to the sites proximity to bus route.</li> <li>- Designing the orientation of layout of apartments to maximise access to natural light, natural cross ventilation and aspect.</li> <li>- Use of construction materials that is conducive to thermal mass such concrete slabs.</li> <li>- Landscape spaces laid out for maximum solar access, natural ventilation, water and planting management.</li> <li>- Selective use of sun screening devices as required to minimise use of high energy consumption cooling systems.</li> <li>- Waste minimisation and recycling.</li> <li>- Energy saving appliances.</li> <li>- Promote the use of low energy light fittings.</li> <li>- On-site stormwater detention and retention will be provided.</li> </ul> <p><i>Council comments</i></p> <p>The proposal has been modified to include a roof top terrace. The ventilation of bathrooms is considered satisfactory given the design layout.</p>

<b>Principle 5: Landscape</b>	
<p><i>UDCG comments 19/10/2017</i></p> <p>It was previously noted deep soil planting areas adjacent to the ground floor parking area should be visually linked to the carpark. The intermittent panels shown on the south western elevation provide limited response to this recommendation and should be increased in area.</p> <p>The Panel discussed the applicant's response to previous recommendation that existing trees are retained on site, as well as the need to ensure that trees in the neighboring property are not compromised by construction works in the subject site, including by fencing, footings and walls. Whilst some trees in the neighboring property are shown to have been retained, structures are proposed in what will inevitably be within their critical root zones. This is unacceptable. None of the trees within the subject site, or those straddling the boundary, is currently proposed for retention. Several of these trees appear worthy of retention and provide some pleasant green foil to what will otherwise be a fairly harsh streetscape. The larger tree towards the north east corner of the site is of a scale to be quite useful in the context of the proposed tall building. Removal of any trees should only occur on the basis of a thorough assessment by a qualified arborist. It is recommended that if it is still proposed to remove trees, this be assessed by Council's relevant officer in respect to justification. The proposed rows of Palms on both sides of the building are not considered an effective response to the removal of mature canopy trees and this selection requires revision.</p> <p>Provision of a green roof to the carpark is recommended to improve the amenity of the building and of neighbours.</p> <p><i>UDCG comments 21/02/2018</i></p> <p>It was previously noted that deep soil</p>	<p><i>Applicant comments</i></p> <p>The proposal addresses principle 5 by providing:</p> <ul style="list-style-type: none"> <li>- Appropriate communal open space and landscaped areas that have been designed to respond to the climate, with substantial Deep Soil Zones at Ground Level, a large landscaped courtyard at Level 1 and landscaped rooftop Communal Open Space.</li> <li>- Sustainable planting species selected, that is low maintenance, locally appropriate and available that should also provide good ground cover and canopy shading in summer.</li> </ul> <p><i>Council comments</i></p> <p>The amended final design satisfactorily addresses UDCG's recommendations for landscaping and SEPP and DCP requirements.</p>

planting areas adjacent to the ground floor parking area should be visually linked to the carpark. The lattice pattern panels shown on the south western elevation provide some response to this recommendation.

The Panel discussed the applicant's response to previous recommendation that existing trees are retained on site. The Applicant stated that two trees have now been retained to the front south east corner of the site and some near-boundary neighboring trees protected. These need to be clearly designated on the Landscape Plan. The large tree that straddled the north-east side boundary has recently been removed.

The recommended provision of a green roof to the carpark roof has been implemented. The indicated soil depth of 400mm may not be sufficient for some of the species selected, unless the area is mounded in part for bigger shrubs. One of the bigger species indicated for this area is *Strelitzia reginae* –Bird of Paradise, is known for having a very vigorous root system that can crack pots and planter beds. This may not be a problem if planted on a flat concrete slab and its roots can continue expand – but it is a consideration.

The inclusion of *Ealeocarpus eumundi* (Quandong) in the deep soil area to the south-west of the building is not supported as indicated, as this species can commonly obtain heights of 8m or greater, and would further reduce the already very limited solar access remaining to the private open space of the central single-storey villa unit to the south of the development. A deciduous species would be more appropriate in all locations where overshadowing of private open spaces or living areas of neighboring villa units will occur. Understory ground cover and shrub species should be specified in this area in addition to trees.

#### Principle 6: Amenity

UDCG comments 19/10/2017

Applicant comments

Whilst the introduction of a second lift core has improved overall amenity, the floor plan of the entry corridor remains gloomy. It is recommended that the dual entry ramp/stair is altered to a wide ramp together with widening of the lobby near the lift and provision of mirrors on the wall adjacent to the lift to improve surveillance. If possible it would be highly desirable to provide daylight from above into the lift lobby areas. Their amenity and ambience could also be enhanced by detailed design to accentuate floor, wall, ceiling, and lighting in the lobby spaces, so that they are experienced as arrival points from the adjacent corridors. The blade wall adjacent to the southern lift lobby might also be removed to increase its size. It is recommended that apartments adjacent to the central first floor court are projected into the undercroft of the above floors. The relocation is to provide an inset to the outer northeastern elevation of the building.

The central courtyard could not function effectively as a communal space due to overshadowing, privacy interface with residential units etc. Introduction of rooftop common facilities is one option recommended as an alternative to this first floor court - see comments under (Principle 8).

*UDCG comments 21/02/2018*

The ground floor access has improved somewhat with dual lift cores, a full width ramp rather than dual ramp and stair and expanded waiting area about lift entries. However there is still long dark corridor access to the lift lobbies: it appears that daylight to both lobbies could be provided by way of skylights opening to corners of the central court, with some skillful minor re-planning in these corners. If this were to be included the access could be supported.

As noted previously, the location of the proposed car park on the north-east side boundary has an adverse visual impact upon the town houses that face the boundary at an angle. While the

The proposal addresses principle 6 by providing:

- Good access to public transport, retail, and open space and community facilities/services needs. The proposal is situated adjacent a major bus route linking residents to the greater region.
- Privacy buffers by the selection of landscape species and appropriate building separation from neighboring buildings existing and potential.
- Direct solar access to the maximum number of apartments by way of its orientation to the north-east and north-west and providing adequate building separation.
- Natural and cross-ventilation by minimising single aspect apartments. Windows are located to catch breezes from dominant wind directions in summer mornings and afternoons.
- Well-designed waste and recycling regime, integrating well positioned & ventilated garbage storage rooms at ground level. Waste Management is to be further discussed and confirmed.
- Adaptability of apartments over time by providing some apartments the option to be post- adapted.
- Apartments designed with large living and dining areas that are orientated for optimal solar access, opening onto generous balconies/terraces with views/outlook below enhancing passive surveillance and outlook.
- Bedrooms that have been designed to accommodate at least queen size or two single beds with generous wardrobes/storage space.

*Council comments*

The amended final design satisfactorily addresses UDCG's recommendations for amenity.

<p>green roof of this area has potential to reduce some of the visual impact, the aspect from internal spaces of the townhouses is adversely impacted.</p> <p>Overlooking from the proposed units and their balconies into the two neighboring properties remains a concern, in spite of minimal ADG setbacks now generally being achieved. Glazed balcony balustrades tend to exacerbate this concern.</p>	
<b>Principle 7: Safety</b>	
<p><i>UDCG comments 19/10/2017</i></p> <p>No additional safety issues were raised. Recommended changes to the entry /lift lobby should be incorporated to improve user safety.</p> <p><i>UDCG comments 21/02/2018</i></p> <p>No additional safety issues were raised.</p>	<p><i>Applicant comments</i></p> <ul style="list-style-type: none"> <li>- The residential entry and vehicular entries are well located in high activity and visibility areas. Two well-separated and well-lit vehicle entries to secure car parking areas are proposed from the rear lane in keeping with the Adamstown Renewal Corridor requirements.</li> <li>- The building entry has been designed to provide an appropriate, identifiable, secure, safe and accessible entry. Separate entries are provided for pedestrians and vehicles.</li> <li>- Constant passive surveillance.</li> <li>- Access lobbies are well lit and suitably scaled.</li> <li>- Secure car parking spaces for residential apartments.</li> <li>- Recessed areas have been minimised. Deep Soil Zones to the rear lane will be fenced for security.</li> <li>- External areas will be well lit with clear line of sight from active frontages.</li> <li>- The principles of CPTED (Crime Prevention Through Environmental Design) have been addressed as follows: <ul style="list-style-type: none"> <li>• Casual surveillance of the street through balconies and communal open space fronting the street.</li> <li>• Landscaping has been used to delineate private and public space.</li> <li>• Security entry to the resident car park and pedestrian entries.</li> </ul> </li> </ul> <p><i>Council comments</i></p>

	The amended final design satisfactorily addresses UDCG's recommendations for safety.
<b>Principle 8: Housing Diversity and Social Interaction</b>	
<p><i>UDCG comments - 19/10/2017</i></p> <p>The mix of one and two bedroom apartments should include some three bedroom apartments, given the range of families requiring affordable housing.</p> <p>The linking of the street front communal area to the commercial café limits access to the communal area. Although this could be a useful amenity, it is not the 'communal' facility required in a development of this scale.</p> <p>Relocation of the main common area from the central court to the roof, and allocation of the courtyard to landscaped space would enhance the amenity of adjacent apartments.</p> <p>A potentially acceptable option for communal facilities would be the provision of two roof-top communal spaces, each accessible by the elevator serving that group of apartments. There should be a small room with kitchenette facilities in each, opening to a small protected terrace. Building forms in this location must be planned so that there are no unacceptable impacts on neighboring properties in relation to overshadowing, view loss etc., and if this cannot be achieved an acceptable alternative location must be provided.</p> <p>Improvements to the main lobby and entry as recommended above under 'Amenity' would enhance social interaction in this area.</p> <p>Inclusion of a carwash area near the rear lift lobby would provide opportunity for social interaction and added surveillance to this area of the carpark.</p> <p><i>UDCG comments – 21/02/2018</i></p> <p>The mix of one and two bedroom apartments should include some three bedroom apartments, given the range of families requiring affordable housing.</p> <p>The linking of the street front communal area to the commercial café limits</p>	<p><i>Applicant comments</i></p> <p>The proposal addresses Principle 8- by providing:</p> <ul style="list-style-type: none"> <li>- Range of apartment design and sizes, ensuring a diverse range of people from differing social groups. The Social Housing provider has requested a mix of 1 bedroom and 2 bedroom apartments only in this area.</li> <li>- Development will add an optimum density to the existing residential population in line with the LEP and Adamstown Renewal Corridor.</li> <li>- It is anticipated that there will be no negative impacts on existing social groups or other housing in the area. A Department of Housing townhouse development is located immediately adjacent the site to the north.</li> <li>- Beneficial economic impact to the Town Centre and nearby businesses.</li> </ul> <p><i>Council comments</i></p> <p>The proposal for affordable housing is strongly supported in a growth corridor. The amended final design satisfactorily addresses majority of the UDCG's recommendations. The diversity of housing is considered satisfactory.</p>

<p>access to the ground floor communal area.</p> <p>Inclusion of a carwash area has now been provided near the rear lift lobby.</p>	
<p><b>Principle 9: Aesthetics</b></p>	
<p><i>UDCG comments - 19/10/2018</i></p> <p>Movement of the central mid-level apartments into the undercroft area of the central court would provide a break in the long north eastern elevation, which will reduce the current overbearing lineal nature of the building's massing.</p> <p>The north-eastern boundary wall to the carpark should be constructed of well-detailed masonry incorporating visual relief such as incised patterning, intermittent projections or similar detailing, since this wall will be permanently exposed to residents in the immediately adjacent residential building.</p> <p><i>UDCG comments – 21/02/2018</i></p> <p>The visual bulk and scale of the development remains a concern to the Group. Treatment of external balustrades should provide increased privacy and screening of decks concealing drying space, air conditioning units and deck furnishings. Provision of adjustable screening for all or part of external decks should also be included, particularly at outer, cantilevered corners, prone to wind impact.</p> <p>The disposition of face-brick, painted render and glazed surfaces should be further considered to reduce the apparent bulk of this large building.</p> <p>A realistic photomontage should be provided showing the relationship of the proposed development to the existing streetscape.</p>	<p><i>Applicant comments</i></p> <ul style="list-style-type: none"> <li>- The aesthetic approach to the street facade seeks to respond to the desired future character of the Adamstown Renewal Corridor, and addresses comments received from the Urban Design Consultative Group.</li> <li>- The proposed massing achieves a balance between large and small elements, solid and void, built and natural parts, and horizontal/vertical. The arrangement and articulation of elements on the façade all contribute to a modulated façade.</li> <li>- The building elements have been designed with regard to the elements, textures, materials and colours of the existing neighbourhood. The horizontality within the facade design is intended to reduce the visual bulk of the building. A detailed schedule of materials and finishes is to be submitted with the DA.</li> </ul> <p><i>Council comments</i></p> <p>The amended final design satisfactorily addresses UDCG's recommendations for external finishes as the colours were amended.</p> <p>An awning is proposed over a portion of the Brunker Road footpath area and provides an improved amenity within the public domain.</p>
	<p><i>Council concluding comments</i></p> <p>The applicant has made amendments to reduce the bulk and scale of the built form toward the rear of the site.</p>



	<p>The awning has been included over the commercial element of the frontage and into the entry of the residential element.</p> <p>On the basis of these main changes, the design is considered to be acceptable.</p>
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### Apartment Design Guide (ADG) - Key "Rule of Thumb" Numerical Compliances

The ADG provides benchmarks and guidelines for the design and assessment of residential apartment development. The following contains an assessment of the development against key controls of the ADG.

#### **1. Separation Distances**

*"Minimum separation distances for buildings are:*

- *up to four storeys/12 metres*
- *12 metres between habitable rooms/balconies*
- *9 metres between habitable/balconies and non-habitable rooms*
- *6 metres between non-habitable rooms"*
  
- *five to eight storeys/25 metres*
- *18 metres between habitable rooms/balconies*
- *12 metres between habitable/balconies and non-habitable rooms*
- *9 metres between non-habitable rooms"*
  
- *nine storeys and above (over 25m):*
- *24m between habitable rooms/balconies*
- *18m between habitable rooms and non-habitable rooms*
- *12m between non-habitable rooms"*

#### Comment

The north-east elevation:

- On the ground floor, units G01, G02 and the commercial area are setback 6m from the boundary. The area within the 6m includes open space for the units and a communal area for the café. Living room and bedroom windows also look out onto this area. The 6m separation has also been applied to levels 1, 2 and 3. The setback has been increased to 9m on levels 4 and 5, with a further increase for the rooftop.



The separation distances proposed are considered acceptable.

The south-west elevation:

- The proposal is setback 3m for the majority of the elevation on ground level to level three, with the units in the south east of the site (facing Brunker Road) being setback 1.2m (units 1.11, 2.11 on levels 1 and 2). The setback increases to a minimum of 3m on level 3 and 6m on level 4.
- The upper floor has encroachments within the ADG guideline controls and is considered satisfactory as discussed below.

Overshadowing diagrams and elevation perspectives to neighbouring private open spaces have been provided, indicating sufficient solar access to the adjacent living spaces of dwellings. As such, the separation distance from this building to the south-west boundary is considered acceptable.

**Table 2:** Comments for each level regarding separation

Floor Level	Comment
All levels	The adjoining buildings are single storey in height (multi dwelling housing). However it is appropriate to consider future redevelopment potential of that land. In cases such as these, for equity, it is standard practice to require half of the required separation for each building. The proposal generally complies with this requirement.
Ground Floor including the secured car parking	<p>The proposed development is built to the boundary on the north-east elevation for a length of 26.4m with no window openings as it is part of the secured parking area. Figure 1 and two indicate the ground floor elevations and treatment.</p> <p style="text-align: center;"><b>Figure 1: North-east elevation</b></p>  <p style="text-align: center;"><b>Figure 2: Southeast elevation</b></p> 
Level 1	North-east elevation is satisfactory. The south-east elevation generally complies, with two units having small encroachments into living spaces, bedroom and terrace. There are no overshadowing or privacy impacts with this encroachment.
Level 2	The proposal is considered satisfactory with the same issues and proposed encroachments as level 1.
Level 3	The proposal is compliant on the north-east elevation and compliant for majority of the south east elevation. One unit contains a bedroom encroachment with no privacy or overshadowing impacts as a result.

Level 4	The separation requirement has been met.
Level 5	The separation requirement has been met.
Rooftop	The communal space and landscape areas are compliant.

## 2. Size of Units

*Apartments are required to have the following minimum internal areas:*

- studio apartment 35m<sup>2</sup>
- 1 bedroom apartment 50m<sup>2</sup>
- 2 bedroom apartment 70m<sup>2</sup>
- 3 bedroom apartment 95m<sup>2</sup>

*Additional bathrooms increase the internal area by 5m<sup>2</sup>.*

### Comment

The proposal contains one-bedroom and two-bedroom apartments only. All of the proposed apartments comply with this requirement.

## 3. Unit Configuration

**Table 3:** Unit configuration controls

'Rule of thumb'	Officer comment
Provide primary balconies for all apartments with a minimum depth of 2 metres for 1-2 bedroom and 2.4 metres for 3 bedrooms.	Complies
In mixed use buildings: 3.3 metre minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use.	Complies
Measured from finished floor level to finished ceiling level, minimum ceiling heights are 2.7m for habitable rooms.	Complies
The back of a kitchen should be no more than 8 metres from a window.	Complies
The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	Complies
Every habitable room must have windows in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	Complies

## 4. Solar Access

*Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of two hours direct sunlight between 9 am and 3 pm in mid-winter."*

*"A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter."*

Comment

The proposal is satisfactory in providing solar access to the proposed dwellings, with 76% of units receiving a minimum of two hours of sunlight and 14% (7 units) of apartments receiving no direct solar access.

**5. Storage**

*"In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:*

*Studio apartments 4m<sup>3</sup>*

*1 bedroom apartments 6m<sup>3</sup>*

*2 bedroom apartments 8m<sup>3</sup>*

*3 bedroom apartments 10m<sup>3</sup>*

*At least 50% of the required storage is to be located within the apartment"*

Comment

The proposal complies with this requirement.

**6. Natural Ventilation**

*"At least 60% of apartments are naturally cross ventilated"*

*"Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line"*

Comment

The proposal complies with this requirement with 66% of apartments being designed to achieve cross ventilation. The layout of the apartment levels has been designed to create a naturally cross ventilated lobby spine across the width of the building. The proposal is considered to be satisfactory in this regard and the UDCG supported the cross ventilation due to the presence of two major common open spaces and natural light and ventilation availability in the lift lobbies.

The depth of the cross through apartments measures 11.8 to 12.8m and complies with this requirement.

**7. Private Open Space**

*"1 bedroom apartments 8m<sup>2</sup> with 2m minimum depth*

*2 bedroom apartments 10m<sup>2</sup> with 2m minimum depth*

*3 bedroom apartments 12m<sup>2</sup> with 2.4m minimum depth"*

Comment

The apartments comply with this requirement.

## 8. Communal and Public Open Space

*"communal landscaping 25% of the site"*

*"communal open space receives 50% direct sunlight in mid-winter"*

### Applicants Comments

*'Control 4E provides controls regarding the private open space and balconies for apartments based on the amount of bedrooms. While the proposed development largely complies with the control, a total of two 1-bedroom apartments do not meet the minimum requirement of 8m<sup>2</sup> for balcony area. Each 1 bedroom apartment achieves a balcony area of 7.6m<sup>2</sup> resulting in a non-compliance of 0.4m<sup>2</sup> or 5%.*

*To compensate for this non-compliance the design guide allows for variations if communal space is provided. Two communal spaces are proposed for the development with a large communal area on the first floor with an area of 193.1m<sup>2</sup> with a second smaller area adjoining the ground floor commercial tenancy with an area of 46.2m<sup>2</sup>.*

*As ample communal space is provided across two areas the minor non-compliance with the ADG regarding private open space and balcony area is considered to be acceptable in this instance.'*

### Comment

The following communal facilities are provided to the development:

- Ground floor (93m<sup>2</sup>)
- A roof terrace (331.5m<sup>2</sup>)

The proposal requires 25% communal space and 21.55% is proposed.

There are a number of significant public open spaces located within close proximity to the site, including Arthur Park (a Landscape Heritage item 100m from the site) and Adamstown No 1 Oval (150m from the site). On this basis, the variation is considered acceptable.

The solar access to the open space is considered satisfactory and all terraces comply and have adequate solar access.

## 9. Deep Soil Zones

*"15% of the site as deep soil on sites greater than 1,500m<sup>2</sup>"*

### Comment

The proposal provides for 11.15% (219.7m<sup>2</sup>) of deep soil landscaping, which is short of the required 15% of the site area (296m<sup>2</sup>). The proposed landscaping is located on the ground, podium and roof levels, and accordingly is not considered to be 'deep soil' landscaping. However, the proposal is considered to be acceptable, noting the

constraints of the site and the style of the development, ie residential flat building in a growth corridor.

## 10. Common Circulation Spaces

*"the maximum number of apartments off a circulation core to a single level is eight"*

### Comment

The numbers of apartments off a circulation core do not exceed eight as two lift cores have been included within the development.

### Concluding Comment

The proposal is acceptable having regard to SEPP65, taking into consideration the comments received from the UDCG and the design criteria in the Apartment Design Guide.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)

### *Part 2 Division 1 - In-fill affordable housing*

#### *Clause 10 Development to which Division applies*

- (1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:*
  - (a) the development concerned is permitted with consent under another environmental planning instrument, and*
  - (b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.*
- (2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.*
- (3) Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.*

The proposed development satisfies subclause (3), being on R4 High Density Residential zoned land under Newcastle Local Environmental Plan 2012 (ie not in the Sydney region), in which residential flat buildings are permitted with consent, being a site that does not contain a heritage item and being a site that is located within 400 metres walking distance of land within a B4 Mixed Use zone.

#### *Clause 13 Floor space ratios*

This clause provides additional FSR for affordable housing. In this instance, the entire building, excluding the ground floor commercial cafe is affordable housing. The arrangement offers an additional 0.5:1 bonus, bringing the allowable FSR to 2:1 (1.5:1 LEP + 0.5:1 SEPP bonus = 2:1). The proposal uses the bonus provisions with a proposed FSR of 1.99:1 as follows:

**Gross Floor Areas**

Ground = 306.8m<sup>2</sup>

Level 1 = 926.8m<sup>2</sup>

Level 2 = 926.8m<sup>2</sup>

Level 3 = 759.6m<sup>2</sup>

Level 4 = 587.0m<sup>2</sup>

Level 5 = 453.9m<sup>2</sup>

Level 6 = 14.6m<sup>2</sup>

Total = 3,925.5m<sup>2</sup>

FSR= 1.99:1

*Clause 14 Standards that cannot be used to refuse consent*

The assessment of this development application should have regard for the criteria for certain matters that cannot be used to refuse consent. These include site area, landscaped area, deep soil zones, solar access, parking and dwelling size. An assessment of this application against these standards has been provided below:

**Table 3:** Development Standards that cannot be used to refuse consent

Development Standard	Compliance	Comment
<b>Site area</b> (1)(b) if the site area on which it is proposed to carry out the development is at least 450m <sup>2</sup>	Yes	The combination of Lot 1-2 DP 100683 and Lot 1-2 DP304669 create a site area of 1929.6 m <sup>2</sup> .
<b>Landscape Area</b> (1)(c) if any other case – at least 30 per cent of the site area is to be landscaped, (d) deep soil zones if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed: (i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the	Yes	The proposal provided the following: Ground level - 11.8m <sup>2</sup> Level 1 - 288.8m <sup>2</sup> Rooftop - 71.3m <sup>2</sup> Deep soil areas across site – 219.7m <sup>2</sup> Total = 591.6 m <sup>2</sup> (30.03%)

<p>deep soil zone), and</p> <p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area</p>		
<p><b>Solar Access</b></p> <p>1 (e) solar access if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	Yes	It is considered that the proposal is acceptable in relation to solar access.
<p><b>Parking</b></p> <p>(2) General A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) parking if:</p> <p>(ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms</p>	Yes	Council's Development Engineer has considered the submitted Traffic Report and proposal. It is considered that the proposal is acceptable in relation to off-street parking and access.
<p><b>Dwelling Size</b></p> <p>(b) dwelling size if each dwelling has a gross floor area of at least:</p> <p>(i) 35 square metres in the case of a bedsitter or studio, or</p> <p>(ii) 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>(iii) 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>(iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.</p>	Yes	Each one-bedroom and two-bedroom dwelling meet the minimum dwelling size.



The proposal is generally acceptable having regard to the SEPP. Some rules of thumb of note are:

- *Where there is a consistent front building alignment, new development should not encroach on the front setback*

The proposal complies with this requirement given the development is establishing the frontages for the growth corridor.

- *Garage doors should be setback a minimum 1metre behind the predominant building façade on both the street frontage and common driveways*

The proposal complies with this requirement.

- *Where side setbacks are less than 1.2m, a maximum of 50% of the development should be built to this alignment*

The proposal complies with this requirement.

#### 16A Character of local area

*A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.*

The proposal is within a growth corridor for high density residential use. The proposal is considered to be satisfactory in this regard and meets the objectives of this corridor.

#### 17 Must be used for affordable housing for 10 years

*(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:*

- (a) for 10 years from the date of the issue of the occupation certificate:*
  - (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*
  - (ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
- (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.*

A condition is recommended to be placed on the consent in this regard.

#### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The Vegetation SEPP is one of a suite of Land Management and Biodiversity Conservation reforms that commenced on 25 August 2017.

The Vegetation SEPP works together with the *Biodiversity Conservation Act 2016* and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW. Part 3 of the Vegetation SEPP contains provisions similar to those contained in the former (now repealed) cl.5.9 of Newcastle Local Environmental Plan 2012 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The Vegetation SEPP further provides that Council may issue a permit for tree removal.

The proposal has been considered in accordance with the Newcastle Development Control Plan 2012, as detailed in this report, and is considered to be satisfactory.

### Newcastle Local Environmental Plan 2012 (NLEP 2012)

#### *Clause 1.3 - Land to which Plan applies*

NLEP 2012 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 R4 High Density Residential under NLEP 2012.

The proposed development is defined as a residential flat building and café under NLEP 2012 and is permissible in the zone.

The development is consistent with the objectives of the zone as it will provide for a variety of housing in a high density environment.

#### *Clause 4.3 - Height of Buildings*

There is a maximum height limit of 20m on the site. The proposed building height is 23.05m, which exceeds the maximum height limit by 15.25%.

The applicant has submitted a Clause 4.6 variation request, on the basis that the development standard is considered to be unreasonable or unnecessary in the circumstances of the case.

#### *Clause 4.4 - Floor Space Ratio*

The maximum floor space ratio (FSR) for the site is 1.5:1. The proposed development has a FSR of 1.99:1. Given that the proposal is for Affordable Housing, the proposal is eligible for a bonus from SEPP (Affordable Housing) 2009, allowing for a maximum FSR of 2:1, which complies with this requirement.

#### *Clause 4.6 Exception to Development Standards*

Clause 4.6 of NLEP 2012 enables consent to be granted to a development even though the development would contravene a development standard.

The proposed development exceeds the 20m height limit by 3.05m. The area of non-compliance is located on the communal roof area, which applies to only a small part of the fifth floor. The variation is considered to be 15.25% higher than the development standard.

The objectives of clause 4.3 of NLEP 2012 are to:

- *ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,*
- *allow reasonable daylight access to all developments and the public domain.*

In assessing the proposal against the provisions of clause 4.6, it is noted that:

1. Clause 4.3 is not expressly excluded from the operation of this clause; and
2. The applicant has submitted a written request seeking Council to vary the development standard and demonstrating that:
  - a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - b) there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's written submission contends that enforcing compliance would be unreasonable or unnecessary in this case, for the following reasons:

*'The proposed variation is considered reasonable on the basis that:*

- *The proposed height variation is situated in a location which will not result in any detrimental impact to any sensitive land uses and therefore the impact of the variation is negligible;*
- *The height exceedance is as a result of Council request for communal open space on the roof top;*
- *The proposed built form will reflect the emerging contemporary character of the locality and positively upgrade the existing streetscape. The projection of the building above the height limit will not result in an overbearing visual impact; and*
- *The variation is marginal and strict compliance with the exact standard would not achieve a greater planning or urban design outcome.*

Additionally the applicant notes:

#### Height

*The proposed development achieves the objectives of Clause 4.3:*

- a) *to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,*

*The proposed development has been designed by Holdsworth Design and consists of a high quality; architecturally designed building that makes a positive contribution to the street frontage of Brunner Road. The proposed built form will*

*reflect the emerging contemporary character of the Adamstown Renewal Corridor. The projection of the building above the height limit will not result in an overbearing visual impact, as the exceedance in height is towards the centre of the site and will therefore have minimal impact on surrounding development. Details of the façade and articulation are provided in the revised Architectural plans. In this instance, strict application of the development standards for maximum height is unreasonable and unnecessary and would not achieve a greater planning or urban design outcome.*

*The exceedance in height is a result of the inclusion of communal open space on the rooftop area as requested by Council. In order to achieve this, two lift overruns with associated fire staircases and rooftop fence line. These inclusions lead to an exceedance in height to achieve the desired outcomes from Council.*

*Reasonable daylight access is provided to all surrounding developments. The proposed height variation is situated towards the center of the building which will not result in any detrimental impact to any sensitive land uses. The development facilitates future development on adjoining property to the east without compromising the ability to develop and achieve the intended built form on the adjoining land. The revised Architectural plans and shadow diagrams provided in Attachment C demonstrate the negligible impact of the proposed height variation. The proposed development achieves the objective of the clause and therefore strict compliance with a 20m height limit would be unreasonable, unnecessary and would not achieve a greater planning or urban design outcome.*

*Accordingly, the proposal is considered to be consistent with Clause 4.3 and the R4 High Density Residential Zone.'*

#### Comment

The applicant's written submission states that the variation to the height standard should be supported as the impacts are acceptable and it would be unreasonable in this instance to require compliance.

The application has been subject to advice from Council's UDCG, which provided support for the height of the proposed development. In addition, the UDCG was supportive of a communal roof area as it will allow for social interaction between the occupants of the building.

Lastly, the rooftop area itself is unlikely to result in additional overshadowing or loss of privacy to adjoining neighbours, particularly given the variation is located within the mid-site encroachments. Refer to Figures 2 and 3 and 4 below, which provide a visual representation of the proposed variation.

The proposed variation to the maximum building height of NLEP 2012 are considered to be acceptable and the variation request is supported.

#### **Figure 2: Section XX**

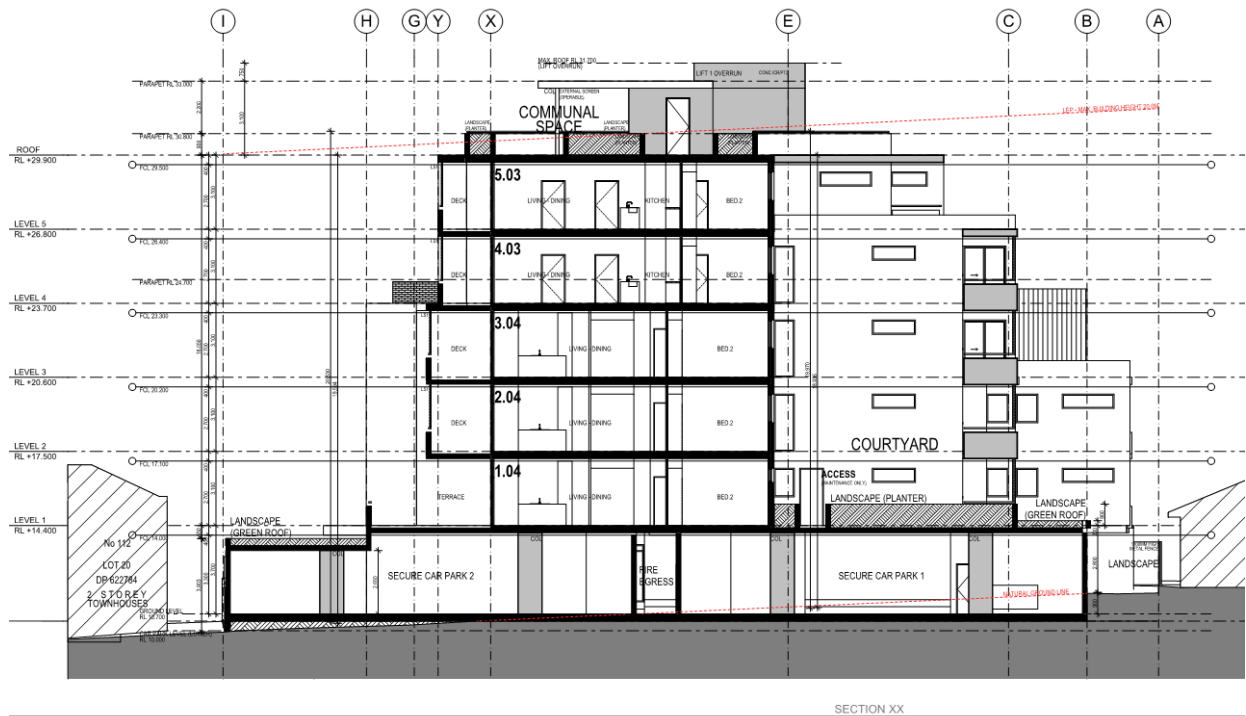
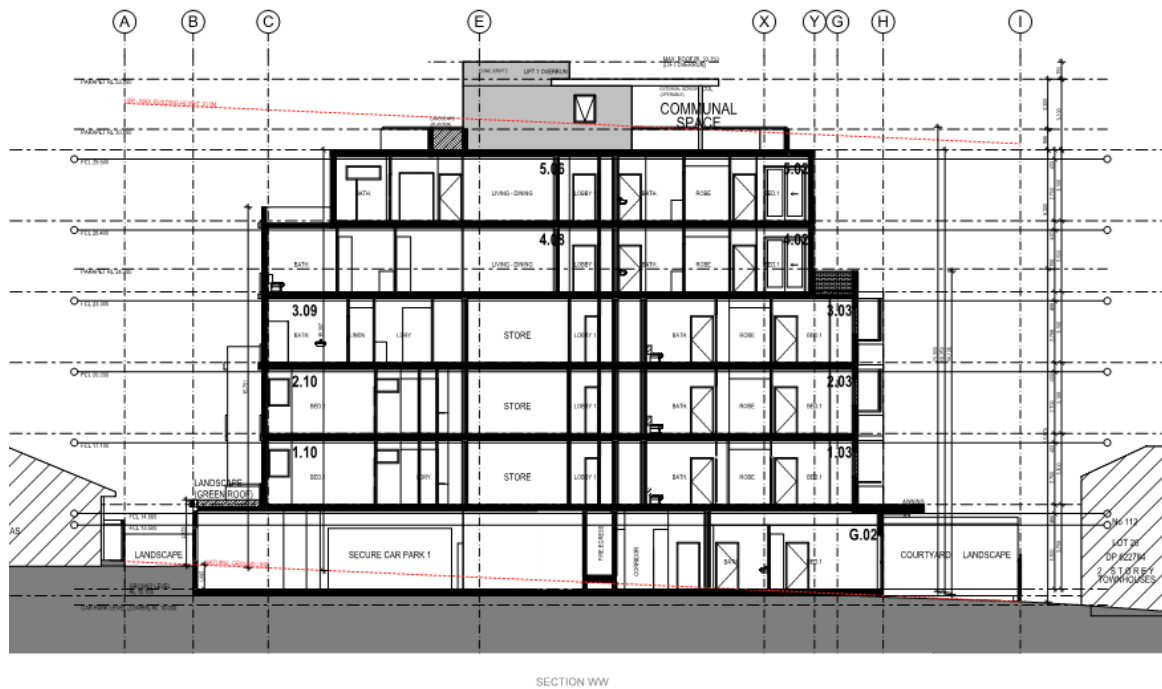


Figure 3: Section XY



Figure 4: Section WW



### *Clause 5.10 Heritage Conservation*

The subject site is not listed for its heritage significance in NLEP 2012 and it is not an identified archaeological site. In addition, the site is not located within a Heritage Conservation Area.

### *Clause 6.1 Acid Sulfate Soils*

The site is identified as containing Class 5 Acid Sulphate Soils. The development does not propose works 1m or more below natural ground level and a preliminary acid sulfate soils plan was not required.

### *Clause 6.2 Earthworks*

The earthworks proposed in association with the proposal have been considered in accordance with this clause. In this regard the application is considered to be acceptable. It is considered that the proposed earthworks are unlikely to generate archaeological issues.

#### **5.1.2.2 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.

#### **5.1.2.3 Any development control plan (and section 94 plan)**

The main planning requirements of relevance in the Newcastle Development Control Plan 2012 (DCP) are discussed in detail below.

### *3.03 - Residential Development*

### 3.03.01 Principal Controls

The proposed development satisfies requirements for frontage widths and is considered to be satisfactory in respect of front, side and rear setbacks.

With respect to landscaping, the proposal has been considered under SEPP (ARH) 2009. There is a variation to the required deep soil area, however, the total amount of landscaping is considered to be satisfactory.

### 3.03.02 Siting the development

The proposal is considered satisfactory in respect of the aims and objectives of the Adamstown Renewal corridor. The current amended proposal has improved from the initial proposal by relocating building bulk from the rear laneway elevation to the Brunker Road elevation. The proposal includes a Design Statement with respect to SEPP 65 and relevant principles have been discussed within this report.

### 3.03.03 Amenity

#### A. Solar and daylight access

Overshadowing plans and elevation plans have been supplied to assess the impact of the proposal on neighboring properties.

The plans indicate a significant impact to the adjacent multi dwelling housing at 126 Brunker Road. The applicant has provided a detailed analysis of the living rooms and private open spaces of each dwelling and is discussed in Table 4 below.

**Table 4:** Applicants response to neighboring properties impacted on by overshadowing

Impacted property	Applicant Comments	Council Comments
Unit 1/126 Brunker Road	Living spaces achieved solar access from 10:15am to 2:30pm on 21 June (4 hours and 15 minutes). The private open space achieves solar access from 1:45pm to 2:15pm (30 minutes) and 2:00pm to 3:00pm (1 hour) on 21 June.	The proposal is considered to achieve a minimum of two hours solar access to a living room. The proposal is considered satisfactory.
Unit 2/126 Brunker Road	Living spaces achieved solar access from 12:00pm to 3:00pm (3 hours) on 21 June. The private open space achieves solar access from 10:15am to 12:00pm (1 hour and 45 minutes) and 11:45am to 3:00pm (3 hours and 15 minutes) on 21 June)	The proposal is considered to achieve a minimum of two hours solar access to a living room. The proposal is considered satisfactory.
Unit 3/126 Brunker Road	Living spaces achieved solar access from 9:00am to 2:45pm (5 hours and 45 minutes) on 21 June)	The proposal is considered to achieve a minimum of two hours solar access to a living room. The proposal is considered satisfactory.

	minutes) on 21 June. The private open space achieves solar access from 10:15am to 3:00pm (4 hour and 45 minutes) on 21 June.	proposal is considered satisfactory.
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*B. Natural ventilation, C Ceiling heights, D Dwelling size and layout, E private open space, F Storage, G car and Bicycle, H Visual Privacy I Acoustic noise, J Noise and pollution*

The proposal is considered satisfactory, with discussion principally contained within the SEPP 65 component of this report.

Car and bicycle consideration are satisfactory and further discussed within the DCP Traffic and Parking section of this report.

The proposed separation from balconies and sensitive windows is considered to be satisfactory in respect of ADG separation guidelines and are satisfactory regarding visual privacy.

The anticipated noise from the proposal is considered likely to be domestic noise that is typical of a high density residential environment and is satisfactory in the context of the Adamstown Renewal Corridor.

#### *3.03.04 Configuration*

The proposal is considered satisfactory; refer further to SEPP 65 considerations.

#### *3.03.05 Environment*

The proposal is considered satisfactory; refer further to SEPP 65 considerations.

### *3.10 - Commercial Uses*

This section requires that the ground level be activated through the provision of retail or business premises, minimising the use of solid walls that would affect visual connections. The proposed commercial café space has a floor area of 50.7m<sup>2</sup>. The proposal complies with these requirements.

### *4.04 - Safety and Security*

The applicant has submitted a Crime Prevention Through Environmental Design (CPTED) statement addressing the key principles of this philosophy.

The development allows for natural surveillance within the site and there is a clear delineation of private property vs public space. There is clear vehicular access from the rear laneway, which extends between Bala Road and Melville Roads, close to the proposed development.



#### 4.05 - Social Impact

The proposed affordable housing development will have positive social impacts, noting the central location of the site, which has good access to public transport and services.

The applicant provided the following statement:

*'The proposed development will have a positive impact within the community as it will provide, well-designed and affordable housing opportunities within the Adamstown locality. The proposed apartments have been designed in accordance with the Crime Prevention Through Environmental Design (CPTED) standards, and afford a mix of apartment types and sizes, from 50.1m<sup>2</sup> one-bedroom apartments to 77.2m<sup>2</sup> two bedroom apartments. The design of the development optimizes amenity for the future occupants and is an accessible site for alternate modes of transport.*

*A Crime Prevention Through Environmental Design (CPTED) Assessment has been prepared and is provided. It is considered the proposed development will positively contribute to the diversity of the Adamstown Renewal Corridor and will not result in any negative social impacts on the community.'*

It is considered that the proposal is acceptable in relation to social impacts.

#### 5.01 - Soil Management

A Sediment and Erosion Management Plan has been submitted with the application, with provision to minimise sediments being removed from the site during the construction period. A condition has been recommended to ensure that such measures are in place for the entire construction period.

#### 5.02 - Land Contamination

As previously discussed under SEPP 55 Land Contamination, the site is not identified as being contaminated. The existing use is low density residential.

#### 5.03 - Vegetation Management

The proposal includes the removal of 10 trees from the site. An Arborist's Report considering each tree's health and retention value supports the proposal.

The proposed landscaping scheme is considered to be of high quality and compliments the proposed contemporary development of the site. It is recommended that suitable street trees be provided on Brunner Road, additional landscaping be provided within the gardens of the residential flat building and the species of trees provided be altered to more acceptable species. The following table identifies the trees impacted:

**Table 5:** Summary of trees from Arborist's Report

Tree	Retention Value	Action
1 - <i>Citharexylum spinosum</i> - Fiddlewood	Low	Remove

2 - <i>Pittosporum undulatum</i> - Cheesewood	Low	Retain
3 - <i>Casuarina cunninghamiana</i> - River Oak	Moderate	Retain
4 - <i>Harpephyllum caffrum</i> - Wild Plum	Very Low	Remove
5 - <i>Alnus jorullensis</i> - Evergreen Elder	Low	Remove
6 - <i>Callistemon</i> species	Low	Remove
7 - <i>Archontophoenix cunninghamiana</i> - Bangalow Palm	Low	Remove
8 - <i>Archontophoenix cunninghamiana</i> - Bangalow Palm	Low	Remove
9 - <i>Archontophoenix cunninghamiana</i> - Bangalow Palm	Low	Remove
10 - <i>Archontophoenix cunninghamiana</i> - Bangalow Palm	Low	Remove
11 - <i>Archontophoenix cunninghamiana</i> - Bangalow Palm	Low	Remove
12 - <i>Archontophoenix cunninghamiana</i> - Bangalow Palm	Low	Remove
13 - <i>Cupressus</i> species	Low	Retain

It is considered that no proposed tree removal needs to be compensated for on the basis on the retention values of the trees proposed to be removed. However, given the significant size of the canopy of the Wild Plum, compensatory planting is considered necessary and would be a positive outcome for the site and immediate locality. The planting of three small to medium size trees is considered to be satisfactory.

The submitted Landscape Plan indicates 11 small trees are to be included at ground level. The proposal notes four street trees to be provided. This is considered to be acceptable and a condition is recommended with a requirement to liaise with Council's City Green Services.

The elevated landscape areas will include small trees (Crepe Myrtles) and is considered satisfactory.

#### *5.05 and 5.07 - Heritage Items and Heritage Conservation Areas*

As previously stated under clause 5.10 of NLEP 2012, the site is not in a heritage conservation area and does not contain a heritage item. However, local landscape 'Arthur Park' is a heritage item that is located 100 meters from the site. The proposal is considered to not impact on the heritage significance of the landscape heritage item. However, the park will benefit to future occupants of the site.

#### *6.08 - Adamstown Renewal Corridor*

The site is located within Precinct 1, with a focus on future development to be predominantly high-density residential on both sides of Bruncker Road.

#### *Applicants Response:*

*'It is noted that the proposed development does not comply with the requirements of this section of the DCP. Initial consultation was undertaken with the Urban Design Consultative Group to identify that a building scheme that was compliant with the renewal corridor would not practically fit on the site.'*

*Further, the application was reviewed by the UDCG on 21 February 2017 and was supported by the UDCG. Since the UDCG on 21 February, consultation with Council has been undertaken. The design has since been amended so as to withdraw back from the laneway and push forward towards Brunker Road as well as modification of the podium level. A summary of the changes which have been made are as follows.*

<i>South- West Corner to Brunker Rd</i>	<p><i>1.a</i> Built form of podium/base to building moved closer to west boundary &amp; south boundary to Brunker Rd. at the request of Council resulting in a removal of landscape area previously proposed. However, the height of the podium in this corner has been reduced by one-storey to assist the transition of built form along Brunker Rd. from a 4-storey podium/base to 3-storey elements to the existing one and two storey residential dwellings adjacent to the west. The street frontage has been further activated as a result, particularly at ground level with the proposed Cafe, Residential Entry, Communal Meeting Space and potential Electrical Substation.</p> <p><i>1.b</i> Additional built form proposed to Levels 3, 4 &amp; 5 above the 3 storey base podium, but significantly setback from the street and side boundary in line with ADG building separation.</p>
<i>North-West Corner to Rear Lane</i>	<p><i>2.a</i> Built form of podium/base to building significantly further setback to rear lane to accommodate garbage truck movements and collection at ground level and improve building separation to proposed residential apartments facing the rear lane.</p> <p><i>2.b</i> Additional built form proposed to Levels 3 &amp; 4 above the 3 storey base podium, but significantly setback from the street and side boundary in line with ADG building separation.</p>
<i>North Frontage to Rear Lane</i>	<p><i>3.a</i> 500mm min. setback requested by Council applied to built-form fronting rear lane.</p> <p><i>3.b</i> Built form of podium/base to building reduced by one storey to 3-storeys to improve transition across the lane and between residential zonings.</p>
<i>Roof Level</i>	<p><i>4.</i> Lift/Fire Stair cores both extended to service extensively landscaped communal open space at roof level at request of UDCG. Covered terrace spaces with outdoor kitchen/BBQ facilities are proposed attached to each core. Although this creates an overrun to LEP Max. Building Height the built form is centrally located within the site and further softened by proposed landscaping.</p> <p><i>The previously proposed landscaped courtyard space to west at Level 1 has been retained for amenity to apartments.</i></p>
<i>Landscape</i>	<p><i>5.</i> Rooftop to car park at level 1 is proposed to be landscaped with green roof to soften the development.</p>
<i>Other</i>	<p><i>6.</i></p>

	<p><i>The proposed number of residential apartments has increased from 47 to 50.</i></p> <p>7. <i>The proposed number of car parking spaces at Ground Level has decreased from 39 to 36, which remains in excess of SEPP (Affordable Housing) requirements.</i></p> <p>8. <i>The GFA / FSR has increased from 1.85:1 to 1.99:1, which remains within the maximum prescribed by the DCP taking into account bonus for Affordable Housing.</i></p> <p>9. <i>Additional trees retained in south-east corner of site adjacent external space associated with Cafe.</i></p> <p>10. <i>Central units to east at Levels 1 - 3 further recessed to west reducing central courtyard at request of UDCG.</i></p>
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Council consideration of part 6.08 - *Adamstown Renewal Corridor* of the DCP is discussed below.

#### *6.08.01 Land use and development*

Each of the ground floor apartments are provided with separate access which is consistent with this policy.

A commercial café component is on the ground floor addressing Brunner Road. The proposal is considered to be compatible with existing residential and commercial development along Brunner Road. The proposal combines high-density residential use with low intensity employment.

#### *6.08.02 Building Form*

The general mass, bulk, density and scale of the development, the relationship with the adjoining land use zone and the impact upon adjoining residential properties is considered to be satisfactory. The built form is considered to provide for the appropriate density in respect of renewal corridor intentions. The proposal enforces a positive contribution for Brunner Road and adds to the ongoing development trend of the street.

The proposal indicates a variation to the maximum 8.5m street wall height. The proposed front elevation has a maximum wall height of 14 metres. This was a result of an amendment that relocated building bulk from the rear of the development to the front of the development, to address Brunner Road and reduce impacts on the R3 Medium Density zoned land on the opposite side of the laneway.

The impact of the building on the overshadowing of adjoining residential properties is discussed within *section 3.03 - Residential Development* of the DCP and is considered satisfactory.

The scheme proposes a large roof garden area utilised as communal space, which is supported.

#### *6.08.03 - Public Domain*

The development proposes vehicular access from the unnamed lane at the rear of the site. The lane intersects with Melville Road and Bala Road. The arrangements for access have been discussed further in *section 7.03 - Traffic, Parking and Access* of the DCP and is considered satisfactory.

The main pedestrian access is centrally located along the Brunner Road frontage, which contributes to the activation of that frontage. The inclusion of landscaping in the rear setback adds visual interest and softens the impact of the built form towards the road.

The proposed landscaping is considered satisfactory and further discussion has been provided within the consideration of SEPP ARH and relevant DCP sections.

The site's waste management point is located adjacent to the laneway and is to be managed privately. The location of this waste point, along with provision for truck access is considered to be acceptable.

#### *7.02 - Landscape, Open Space and Visual Amenity*

A suitably qualified Landscape Architect has prepared the submitted landscape plan, which identifies 11 small to medium size trees to be incorporated into the development, along with a number of small trees in the elevated landscaping components.

The landscaping proposed is considered to adequately compensate for the loss of tree canopy from the proposal, albeit that the trees to be removed are of low retention value. The proposed landscaping on the site and within the public domain is considered satisfactory.

#### *7.03 - Traffic, Parking and Access*

It is noted that certain concessions are made for affordable rental housing, in accordance with SEPP ARH. SEPP ARH prevails in relation to any inconsistencies with the DCP. The proposal is acceptable having regard to this section.

##### *Parking Provisions*

The provisions in the Renewal Corridor include:

- Small (<75m<sup>2</sup> or one bedroom) average 0.6 spaces per dwelling
- Medium (75m<sup>2</sup> - 100m<sup>2</sup> or two bedrooms) average 0.9 spaces per dwelling
- Large (>100m<sup>2</sup> or three bedrooms) average 1.4 spaces per dwelling
- 1 space for the first three dwellings plus 1 space for every five dwellings thereafter, or part thereof, for visitors.

As noted SEPP ARH prevails and specifies 0.4 spaces provided for any one-bedroom dwelling, at least 0.5 parking spaces for any two-bedroom dwelling and at least 1.5 parking spaces for any three-bedroom (or more) dwelling.

Council's Senior Development Engineer has provided the following assessment:

*'The proposed new development provides 36 off-street car parking (including 1 accessible parking), 2-motorbike parking and has storage areas which can accommodate for bicycle parking for the Units. Visitor bicycle parking can be provided within the site.*

*The development therefore complies with the SEPP Affordable Housing & Council DCP 7.03 parking provisions.*

*The parking will however need to be allocated for the Commercial Visitors and residents. A signage is to be provided indicating the availability of parking with the premises.*

#### Traffic Generation

*The traffic report has been reviewed and the data from the traffic report confirms that the proposed development will not have any detrimental impact on traffic and at the intersection at the laneway.*

*In noting that Brunner Rd is a renewal corridor and it is anticipated that customers for the commercial unit can compete to park on Brunner Rd or choose to park at the visitor parking within the site.*

#### Alternative Transport and Cycling

*It is noted that Adamstown and Broadmeadow areas are very popular bicycle orientated areas and is in very close proximity to Fernleigh Tracks which is a major bicycle track for recreational riders along Teralba Rd leading to the beaches through the local streets and to Kotara areas. Each of the new Units will need to provide for Bicycle parking space within the property. Based on the above, bicycle parking requirements will need to be fulfilled by the development and additional provisions for bicycle parking can be provided on the footpath areas for possible commercial customers.*

#### Driveway Access, Manoeuvring and Parking Layout

*Driveway access is provided via two new crossing from the rear unnamed laneway. The proposed driveway for the main basement (secured) parking will need to be at least 5m wide to allow for two vehicles to pass.*

*Manoeuvring within the basement carpark and the visitor spaces seems to be compliant with Australian Standards. The laneway is not noted to be busy and previous comments by Council's Traffic Section for other similar development on Brunner Rd have allowed for reversing onto laneways. The main basement parking will be able to enter and exist in a forward direction.*

*The parking spaces and the accessible parking spaces seem to comply with Australian Standards.*

*The development therefore generally complies with Council guidelines and relevant Australian Standards and is therefore acceptable.*

#### *Laneway Use for main Vehicular Access*

*The proposal will be using the unnamed lane as the main vehicular access and garbage pick-up from the site. It is noted that the laneway is generally unformed and is narrow (approx. 5.6 -5.9m wide). Two way accesses along the lane will become harder further development along the Brunner Rd frontage properties will be providing vehicular access from the laneway.*

*The laneway will therefore need to be formalised for access and provision of street lighting and pedestrian refuge facilities will need to be provided.*

*It is noted that the existing width of the laneway is very narrow to provide such facilities. The laneway will therefore need to be widened to allow for provision of kerb and gutter, street lighting and pedestrian refuge.*

*In this regards, the applicants have agreed to provide 500mm width of the rear of the property be dedicated as a road reserve for widening the unnamed laneway.*

*There are regular bus services along Brunner Rd and a bus stop is located adjacent to the site.*

*In this regards, the applicants have agreed to provide 500mm width of the rear of the property be dedicated as a road reserve for widening the unnamed laneway.*

- The laneway will need to be formalized along the full extending of the laneway; provision of drainage and provision of street lighting will need to be done from Melville Rd and Bala Rd to the property.*
- It is also recommended, that as other developments happen along the laneway, similar requirements to be enforced onto other developments. The applicants can therefore liaise with the adjoining development to design a suitable laneway.'*

The proposal is considered satisfactory with regard to on-site car parking, traffic movements and access. Conditions are recommended regarding the necessary widening of the lane.

#### *7.05 - Energy Efficiency*

The application includes the required BASIX certificates and is acceptable in relation to solar access and the provisions in SEPP 65.

#### *7.06 - Stormwater and 7.07 - Water Efficiency*

Council's Engineer has made the following comments in relation to the proposal:

*'The development has proposed a 10,000L underground rainwater tank collecting the roof runoff with reuse internally for toilet flushing and laundry use for the residential and landscape areas. It is noted that the proposed commercial unit also has toilets and therefore the rainwater tank can be connected to the commercial unit. An additional 15m<sup>3</sup> detention tank is provided with sand filter for stormwater treatment. The reuse and detention is via an underground combined tank.'*

*The stormwater is proposed to be discharged onto Brunner Rd a new kerb inlet pit (KIP) and new drainage pipes to be installed along Brunner Rd to the nearest KIP.*

### Stormwater Treatment

*MUSIC Modelling has been done for the site. Majority of the proposed hardstand areas are undercover except for the driveway. The proposed retention tank has been provided with a sand filter system. A gross pollutant trap is provided within the property boundary that further control pollutants.*

### Drainage Connection

*Stormwater discharge is proposed to be discharged to Brunner Rd frontage via a proposed new underground drainage pipe system. A new kerb inlet pit is proposed on Brunner Rd and will connect to the existing drainage near the intersection of Melville Rd. The new drainage will need to be coordinate with adjoining property developments to ensure a good outcome is reached.'*

The submitted concept stormwater plan complies with the DCP and is therefore acceptable.

## 7.08 - Waste Management

The proposal includes a waste management plan. The applicant has advised:

*'The waste management collection areas have been rearranged to suitably cater for the waste bins with access being made directly to street collection on to the laneway.'*

An amended Traffic report and amended plans have been reviewed by Council's Senior Development Engineers with regard to waste management. The following comments were provided:

*'The waste management plan has indicated that garbage will be serviced by private pick-up. Garbage area is noted to be at the rear of the property and is assumed that pick up will be done mainly from the rear driveway. Part of the laneway could be blocked for garbage pick, however it is assumed that pick-up will be a quick process and will not create any traffic issues.'*

A condition is recommended to require the specific details of the waste management arrangement to be provided prior to the issue of the Occupation Certificate.



### 7.10 - Street Awnings & Balconies

The DCP requires the provision of an awning on Brunker Road, which has been provided as part of the application. Relevant conditions requiring approval for the awning in the road reserve are recommended.

### 8.00 - Public Participation

The application was notified for a period of 14 days on two occasions. During the first round nine submissions were received and, in respect of the current amended proposal, a second round of notification generated two submissions.

### Newcastle Section 94A Development Contribution Plan

Clause 25J Section 94A levy—determination of proposed cost of development of the *Environmental Planning and Assessment Regulation 2000* states:

*(1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development...*

*(3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:*

*(l) the cost of any development that is provided as affordable housing*

The *Environmental Planning and Assessment Act 1979* defines affordable housing as:

*housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.*

It is considered that the development predominantly comprises of 'Affordable Housing' and Section 94A contributions cannot be applied to the development.

#### **5.1.2.4 Planning agreements**

No planning agreements are relevant to the proposal.

#### **5.1.2.5 The regulations (and other plans and policies)**

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and *Regulation 2000*. In addition, compliance with AS 2601 – Demolition of Structures is included in the recommended conditions of consent for any demolition works.

#### **5.1.2.6 Coastal management plan**

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

**5.1.2.7 *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 site is located on Brunner Road in an identified growth corridor that is currently undergoing a transformation from low density residential and commercial to high density residential.

There is some overshadowing expected from the development. The design was amended to remove some bulk from the rear of the building to the Brunner Road frontage. This has improved the solar access within the development. The rear lane provides a separation to the R3 Medium Density Residential zoned land to the west and the proposal concentrates bulk towards Brunner Road, further improving separation from that lower density zoned land.

The proposed development is satisfactory having regard to the principles of ecologically sustainable development and will have minimal impacts on the natural environment. The site does not contain any significant vegetation and will not impact on any natural ecosystems.

Adequate landscaping that is appropriate to the development type is proposed.

Appropriate measures are to be in place during the construction of the development to minimise the likelihood of any sediments leaving the site or entering the waterways during construction.

The proposed development will have positive social and economic benefits. It will provide for a diversity in housing choice through the provision of affordable housing, which has a positive social impact as it allows access to housing for a variety of household types. It is considered that the proposed units will provide a suitable level of amenity for future occupants.

**5.1.2.8 *The suitability of the site for the development***

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

The site is located within a R4 High Density Residential zone under NLEP 2012 and is within the Adamstown Renewal Corridor. The proposal achieves the strategic objectives of the growth corridor with the opportunity to provide high-density affordable housing.

**5.1.2.9 *Any submissions made in accordance with this act or the regulations***

The application was notified on two occasions in accordance with the Act and Regulations. Nine submissions were received in the first round of notification and, in respect of the current amended proposal, a second round of notification generated two submissions.

**Table 6:** Relevant submission comments and Council response

**Issue**Bulk and scale

- *The development is contrary to the scale and character for townhouse / medium density development.*
- *The proposal does not respect the built form or character of the adjacent residential neighbourhood (in Gosford Road).*
- *The proposal is contrary to the intent of the LEP as it does not respect the residential character of adjoining streets. The proposal is four times the height and is overpowering.*
- *The proposal is contrary to ADG policy 1B - character and context - low density to high density development - poor relationships between the two zones.*
- *The proposal is contrary to DCP policy 7.01.04 - the development does not make a positive contribution to the local context and is excessive.*

Comment

The latest amendments to the proposed scheme result in an acceptable relationship with the adjoining land use zone. The development site is located in a growth corridor, providing for the appropriate scale and character of development for the renewal area and for transition into medium density located on the opposite side of the rear laneway.

Height

- *We recommend the restriction of the height to 4 stories maximum and the resulting density.*
- *We object in the strongest terms to building height concessions being granted through a Clause 4.6 variation.*

Comment

The site has a height limit of 20 metres. The proposal includes a variation, as discussed in further detail within the Clause 4.6 NLEP 2012 discussion within this report. The height as proposed is considered satisfactory.

The proposal is considered to represent the desired outcome for the Adamstown Renewal Corridor and a R4 High Density zone site.

It is noted that Council's Urban Design Consultative Group supports the layout of the proposal for communal space on the rooftop and a minor lift overrun height variation.

FSR and FSR bonus

- *We object to the developer's request for a 0.49:1 FSR bonus under Part 2, Division 1 of State Environmental Planning Policy (Affordable Rental Housing) 2009 (the ARH SEPP). This results in an overdevelopment of the site, which is evidenced by the fact the developer seeks reductions in parking provision and landscaped area provision in the SEPP. Meeting the*

*minimum requirements of ARH SEPP, or alternately the FSR and resulting size of the development should be reduced.*

#### Comment

The proposed FSR bonus is supported given the proposal is for Affordable Rental Housing as specified within SEPP ARH. It is considered that the application of the FSR bonus does not cause the proposed building bulk and scale to be unacceptable. Council's Urban Design Consultative Group has supported the proposal and the current amended proposal is a significant improvement from the original proposal. The building has been articulated in the design, for each level of the building.

#### Setbacks

- *We object strongly to the current setbacks to the rear laneway, which appear to be less than the original plans. The development should be set well back (3 to 6 metres) from the rear boundary (after minimum 500mm road widening) to reduce impact on adjoining residences and to provide necessary open space and deep soil zones along the rear of the property, which faces north-east.*

#### Comment

The proposal includes a setback to the ground level of the residential flat building, ranging from 1.9 metres to 3.9 metres. The setback contains (were practical) deep soil planting and adequate deep soil landscaping.

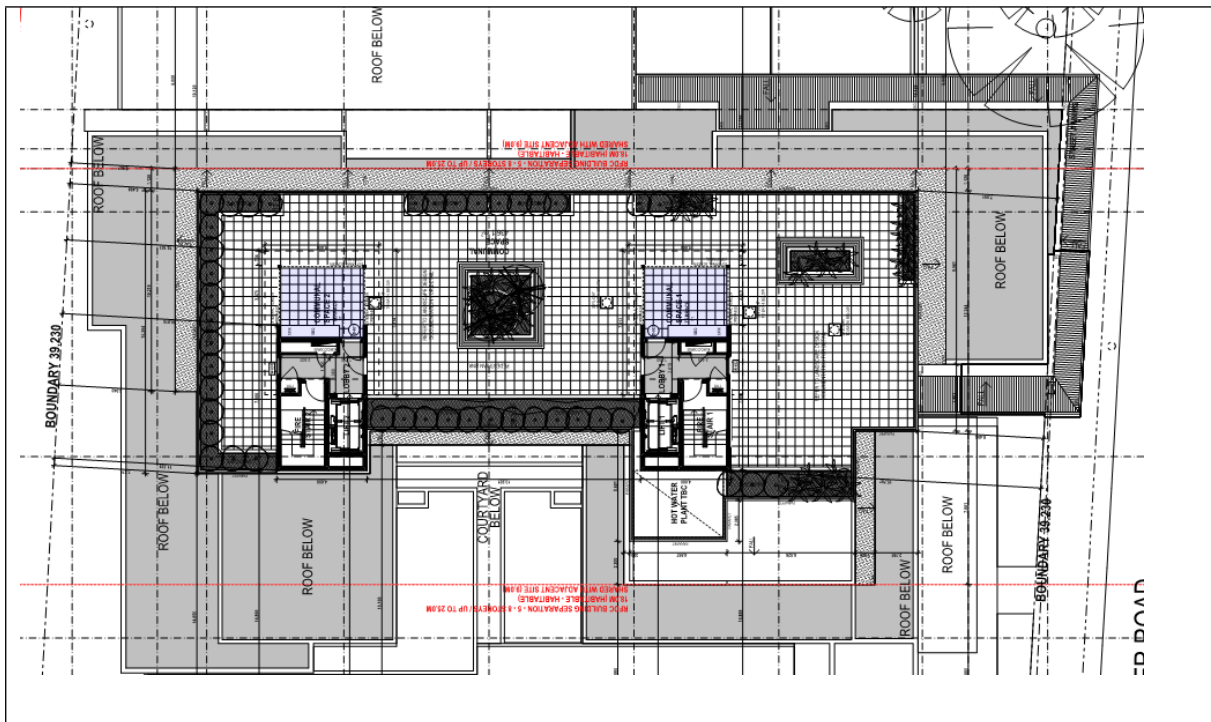
#### Privacy

- *The proposed development with apartments windows and balconies up to six storeys high would enable many residents on the south western side to overlook into our backyard very easily, severely impacting upon our privacy*
- *77 Teralba Road, If the proposed development go's ahead the occupants will look STRAIGHT into our bedrooms as we have louvers to the top of our bedroom fixed glass windows for ventilation, and some extending to the floor. Putting curtains or blinds in front of the louvers render them useless.*
- *We further object to the use of the rooftop as communal open space*

#### Comment

It is considered that the latest amendments to the proposal result in an acceptable relationship with the adjacent properties, with respect to separation distances and privacy impacts. Privacy has been improved through additional landscaped areas to balconies and several screens located along balconies. The communal open space on the roof top has adequate setbacks and landscaping, mitigating potential privacy impacts (refer to Figure 5).

**Figure 5:** Roof top communal area and indicated ADG setbacks and landscaping



### Solar impact and overshadowing

- *This loss of sunlight especially in the winter months is totally unacceptable.*

### Comment

The proposal includes shadow diagrams, including a more detailed analysis for 126 Brunker Road. This has been discussed within this report and is considered to be satisfactory given the desired high density residential environment of the Adamstown Renewal Corridor.

### Traffic, Parking and Access

- *Assessing the development application, it shows 40 parking spaces to be provided. This falls short of the required on-site parking requirement of 43 spaces. In addition to that I find that even 43 would not cover the amount of car spaces required for 47 apartments with a total of 84 bedrooms. Even residents in one-bedroom apartments would often have 2 cars requiring parking. On street parking within the area is already limited and increasing the number of cars within the area would be detrimental to current residents who do not have off-site parking.*
- *The density of 47 residential units and ground commercial would detriment the movement of our cars in the rear council lane and restrict our enjoyment of our land.*
- *The use of the un-named rear laneway for all vehicle movements emanating from this development, and as a result of Council's ill-considered policy to prevent any vehicular access to this section of Brunker Road.*
- *Renewal and widening of the seal on the rear laneway.*
- *Should the relevant consent authority decide to approve the current development application, immediate widening and upgrading of the surface is required (and potentially drainage works) prior to occupation of the development. If subsequent, similar developments may be approved in the*

*near future then widening of the laneway and full 'urban access road' construction is required.*

- *While I do not oppose the development itself nor others, the council must ensure that realistic parking is in place. Not just parking that has been deemed suitable in a policy.*

#### Comment

Council's Senior Development Engineer advises that the development would have an acceptable impact upon adjoining residential streets and the wider road network. The proposal is supported by a Traffic Impact Report. The site is within the Adamstown Renewal Corridor, a growth corridor with an expectation of high density residential apartments. The site has above-standard accessibility, with frequent bus routes along Brunner Road, nearby Broadmeadow Road and nearby Glebe Road. The Broadmeadow and Adamstown train stations are also in relatively close proximity.

The proposal includes a portion of the site to be dedicated to Council for laneway widening. This is considered acceptable and relevant conditions are to be included for the dedication of land.

Any maintenance or upgrade of Council roads (including laneway) will be primarily managed by Council.

#### Character Impacts

- *This development is 3 times higher than any other within the immediate vicinity. In my opinion this certainly is not compatible with any existing developments. It will not blend in with any of the current surrounding buildings.*

*This severely impacts on the character of the area and when I stand in my backyard and look off to the side and imagine seeing six levels of windows and balconies, knowing all those people can peer straight into what has for the last 25 years been our sanctuary, it is just not right. It is something not any other residents in Adamstown have to contend with.*

#### Comment

The proposal is considered to be consistent with the future desired development type for the Adamstown Renewal Corridor. Additionally, the proposal is consistent with the R4 High Density Residential zone objectives documented within NLEP 2012.

#### Noise Impacts

- *The area consists of mainly single dwelling houses, with 1 lot of 2 storey units. Adding 47 unit complex will increase the noise ratio and disturb the quiet residential area.*

#### Comment

It is considered that the proposed development is unlikely to generate noise above

normal domestic noise that could be expected in the Adamstown Renewal Corridor or in the R3 Medium Density zoned land in proximity to the site.

ADG separation is considered satisfactory, as discussed in the SEPP 65 discussions within this report.

#### Landscape and Deep Soil

- *We object very strongly to any reduction in the minimum landscape area requirements for the 'non-refusal' of a proposal under the ARH SEPP. This is once again evidence of an overdevelopment of the site. The 30% minimum landscape area requirement set out in the ARH SEPP should be met is a generous FSR bonus is to be granted to the development.*
- *We object to the non-compliance of this development proposal with the 'deep soil zone' requirements of the ARH SEPP. If the deep soil zone requirements cannot be met the size of the development should be reduced so that they can be met.*
- *We object to the current rear boundary and built from setback which precludes adequate landscaping being provided in the rear laneway.*

#### Comment

The provision of landscaping is considered to be of high quality and sufficient for the needs of occupants. The rear setbacks have provided for landscaping in respect of access to the site and sight lines. The laneway traditionally has a smaller verge than a local road and vegetation is not required on any Council verge of this laneway.

It is noted that the proposal is located in relatively close proximity to Arthur Park and Adamstown Oval's large sporting fields.

#### Errors in documentation

- *The application needs to be resubmitted and re-exhibited with the correct legal land description on all documentation.*
- *The application should be resubmitted with the correct description, using definitions from the EP&A Act, ARH SEPP and NLEP 2012, and re-exhibited. The application and SEE should state clearly that this is an application for which assessment an approval is being sought through Part 2 Division 1 of the ARH SEPP.*
- *The community to be advised of the correct determining authority.*
- *The plans must be resubmitted showing the necessary road widening to, and setbacks from the rear unnamed lane, and re-exhibited*

#### Comments

The errors within documentation were corrected and provided correctly within the second notification period.

The affordable housing element of the proposal was confirmed in writing by the

applicant and noted in the description for the second notification period. In addition, the Joint Regional Planning Panel is the determining authority for the development application, which was also noted in the notification material.

Road widening and setbacks from the rear unnamed lane have been indicated on the submitted amended site plan.

#### Waste Management

- *We object very strongly to the use of the rear unnamed laneway for garbage bin placement and garbage pick-up. This would have a significant impact on the amenity of our property as developments along Brunner Road proceed, and the number of garbage bins increases dramatically, and would cause significant disruption to vehicular access to our property and adjacent properties.*

#### Comments

Council's Senior Development Engineer has considered the location of waste collection from the site. The collection is to be via a private collection arrangement from a specific point at the rear of the site. Further discussion regarding this arrangement is within the Waste Management section of the DCP consideration within this report and is considered satisfactory.

#### Design

- *We strongly object to the rooftop and its structures being used as a 'communal open space' facility for tenants as it represents the addition of a seventh floor to the development.*

#### Comments

The rooftop communal area is considered to not be another storey of the building.

#### Demolition

- *In the event that asbestos is discovered on the site, an asbestos management plan should be required to be approved by Council, and it should be implemented and monitored during the demolition phase. This should be designed to protect the workers on site, the surrounding residents and the public from airborne asbestos fibres.*

#### Comment

The management of demolition is covered by recommended conditions, including the requirement to submit a hazardous material management plan to Council.

### **5.1.2.10 The public interest**

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



development will have an acceptable impact on the surrounding natural and built environment and has many positive social and economic impacts. Approval of the application is considered to be in the public interest.

## **6. CONCLUSION**

The proposal is considered to be acceptable against the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

## **7. RECOMMENDATION**

That the Hunter and Central Coast JRPP grant development consent to DA2017/01291 for the demolition of dwellings and outbuildings, erection of a six-storey residential flat building (affordable housing) including 50 residential units, a ground floor cafe, associated parking and site works at 118-124 Brunner Road Adamstown, pursuant to Section 4.16 of the EP&A Act, subject to the conditions in **Appendix B**.