

<b>DATE OF DETERMINATION</b>	Friday 26 April 2019
<b>PANEL MEMBERS</b>	Michael Leavey (Chair), Susan Budd, Stuart McDonald
<b>APOLOGIES</b>	Jason Perica, Kara Krason, John MacKenzie & Jason Dunn
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically between 10 April 2019 and 26 April 2019.

#### **MATTER DETERMINED**

2017HCC047– Newcastle City Council – DA2017/01291 at 118 Brunner Road Adamstown NSW 2289 – Affordable Housing Residential Flat Building (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to support the clause 4.6 variation to building height and to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

In relation to the contravention by the development of the maximum height development standard of 20 metres imposed by clause 4.3 of Newcastle Local Environmental Plan 2012 ("NLEP 2012"), the Panel is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of NLEP 2012, and
- (ii) the proposed development will be consistent with the objectives of the standard and the objectives for development within the R4 High Density Residential zone under NLEP 2012

The Panel generally agreed with the assessment of environmental impact, conclusions and recommendations within the Council staff reports, and is of the view;

- The site is appropriate for the proposed use and development, and has good access to public transport services;
- The proposal is consistent with the objective of the R4 High Density Residential zone;
- The Council staff assessment has reasonably addressed the proposal's consistency with relevant SEPPs, Newcastle LEP 2012 and DCP 2012;
- The proposal is consistent with the objectives and requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009;
- The proposal is compatible with the character of the local area, noting the planning controls that apply to the site and nearby land in the corridor;
- The proposal will result in positive social benefits and will increase the supply of affordable housing in the area;
- The proposal has been considered by the Council's Urban Design Consultative Group (UDCG) on a number of occasions and improvements have been made to the design in response to UDCG comments;
- Appropriate conditions of consent have been included; and

- The additional information and amended plans provided by the applicant address the Panel's previous reasons for deferral.

The Panel also had regard to advice provided by the applicant that Compass Housing will use the dwellings for 'affordable housing' purposes for a period of 25 years under a contract it has in place with Family and Community Services and that Compass will be undertaking tenancy management and maintenance in respect of these dwellings for a minimum of 25 years in accordance with the contract.

## CONDITIONS

The development application was approved subject to the conditions attached to the Council's supplementary report, with the following changes:

- Insert the following words at the end of the first paragraph in condition 58:

*"and that the accommodation used for affordable housing will be managed by a registered community housing provider."*

Reason: to clarify ongoing management requirements consistent with the Affordable Rental Housing SEPP 2009.

- New condition of consent 69 to be added; as follows:

*69. The roof top communal open space area is not to be used outside the hours of 7am to 9pm Monday to Sunday.*

Reason: to protect the amenity of residents and surrounding properties

## CONSIDERATION OF COMMUNITY VIEWS

- In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel at its meeting on 8 November 2018. The Panel also had regard to the assessment of issues raised in public submissions in the assessment reports prepared by Council staff.
- In particular, the Panel is of the view the bulk and scale of the development is appropriate, having regard to the planning controls applying to the site and the provisions of the Affordable Rental Housing SEPP. Reasonable separation is provided to the nearby properties to the north-west by the rear laneway, and the proposal provides an acceptable interface at the rear, with consideration given to the privacy of nearby properties. Council's engineering staff are satisfied the development would have an acceptable impact on adjoining residential streets, and the proposal includes dedication of land to council for laneway widening.
- The Panel is of the opinion that the relevant issues raised by the community have been addressed through the information provided with the application; in the Council's assessment reports; through conditions of consent; and as addressed in the Panel's reasons above.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

**PANEL MEMBERS**



Michael Leavey (Chair)



Susan Budd



Stuart McDonald

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC0047 – Newcastle City Council – DA2017/01291
2	PROPOSED DEVELOPMENT	Demolition of dwellings and outbuildings, erection of six-storey residential flat building (affordable housing) including 50 residential units, grounds floor café, associated parking and site works.
3	STREET ADDRESS	118-124 Brunker Road, Adamstown
4	APPLICANT/OWNER	Applicant: Compass Housing Co Limited/ Owner: ABL Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <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> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Newcastle Development Control Plan 2012</li> <li>○ Section 94A Development Contributions Plan 2009</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment reports: 25 October 2018</li> <li>• Written submissions during public exhibition: <ul style="list-style-type: none"> <li>• 1st Period: Nine Submissions</li> <li>• 2nd Period: Two submissions</li> </ul> </li> <li>• Supplementary Assessment Report: 2 April 2019</li> </ul>
8	PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> <li>• Papers were circulated electronically between Wednesday, 10 April 2019 and 26 April 2019.</li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report