

24 June 2019

Chris Wilson
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Suite 4, Level 7,
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NORTH SYDNEY NSW 2060

Reply by Email: cwilson@willowtreeplanning.com.au

Dear Chris

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| Pre-Development Application No: | PR2019/00014 |
| Land: | Lot 1-3 DP 229558 Lot 3 DP 515310 Lot 2 DP 239405 Lot 4 DP 1223244 |
| Property Address: | 40 King Street Adamstown |
| Proposed Development: | Site compatibility certificate for seniors housing |

A. Introduction

I refer to the Pre-Development Application meeting held on 31 May 2019 with City of Newcastle ('CN') officers in respect of the above development. I apologise for the delayed response.

The following preliminary planning advice and information is provided to assist in the preparation of a development application. The advice consists of:

- Responses to the key issues nominated on the application form, as well as other matters that are considered to warrant further detail, consideration or amendments prior to the submission of a development application, and
- Statutory matters that will be considered during the assessment of a development application, including the category of development according to the *Environmental*

Planning and Assessment Act 1979, options for integrated development, applicable planning controls, submission requirements and methods of determination that apply to the proposal.

The comments and views expressed in this letter are based on the plans and information submitted for preliminary assessment and any information gathered at the above meeting.

The views expressed may vary once detailed plans and information are submitted and formally assessed in the development application process, or as a result of issues contained in submissions by interested parties.

Proposal

It is understood from the information submitted that the proposal will entail the following:
In-fill self care seniors housing development containing 148 units of one, two and three bedroom units. These units would be contained within two buildings that are up to five storeys in height with basement and at grade carparking, as well as ancillary recreation and entertainment facilities.

B. Key Issues

No specific key issues were identified on the Pre-DA form submitted. Instead, general advice is sought from NCC on the proposal prior to a Site Compatibility Certificate being lodged.

It is considered that the concept of having a form of residential type development on the site has merit.

C. Other Issues

The following matters are considered to warrant further detail, consideration or amendment prior to the submission of an application for a site compatibility certificate with the Department of Planning & Environment and a subsequent development application with CN.

1. Strategic context, built form character and density of development

Strategic Context

CN's Urban Planning Team have advised the following in relation to this proposal:

'The Urban Planning Team has concerns with this proposal, particularly because the scale and density of the proposal is inconsistent with the local planning context outlined in CN's Local Planning Strategy (LPS) and the Greater Newcastle Metropolitan Plan 2036 (GNMP 2036).

Within the LPS, all residential zoned land in the Newcastle LGA is categorised to enable planning controls that support the types and density of development suitable to each locality. These categories / land use zones correlate with walkability and accessibility to transport and services. The four categories are:

- 1. Renewal corridor*
- 2. Substantial growth precinct*
- 3. Moderate growth precinct*
- 4. Limited growth precinct*

In this case, the site is surrounded by low density residential land categorised as being within a 'limited growth precinct.' The LPS identifies that:

"development within this precinct is intended to be limited and, as such, the type of development envisaged is to be more suburban in nature but may still include housing types such as townhouses and villas."

The scale and density of this proposal is generally inconsistent with the type of development envisaged for the surrounding low-density limited growth residential area and the zone objectives.

Although the LPS has not been endorsed by the Department of Planning and Environment, the fundamental elements of supporting growth within identified renewal corridors and strategic centres is consistent with the directions and actions of the GNMP 2036. The GNMP 2036 aims to deliver housing close to jobs and services and includes:

"Action 16.1: Greater Newcastle councils will focus new housing in existing urban areas, particularly within strategic centres and along urban renewal corridors."

Comments were made in the meeting that the site is adjacent to a 'renewal corridor', however, this site is not located within a strategic centre or an identified urban renewal corridor. Increased density in areas surrounding renewal corridors is not consistent with the intent of CN's planning controls or the GNMP2036.

The second concern relates to the piecemeal approach to redevelopment of this site in lieu of preparing a detailed master plan to identify appropriate development opportunities. During the rezoning process for the land adjoining Ella St (2014), the Department of Planning and Environment (DPE) raised concerns about the piecemeal approach to redevelopment and the exacerbation of traffic issues associated with the existing sub-optimal traffic access to the site. DPE suggested that a master plan be prepared before any further development is considered on the site.

The Urban Planning Team does not support further redevelopment of this site without a detailed master plan having been prepared.'

Built Form and Density

In addition to the above strategic planning concerns, the following concerns are raised relating to the proposed built form character and density of the development:

- The Pre-Lodgement Briefing note dated 21 May 2019, describes the development as being 5 storeys in height however, submitted section plans depict a 6-7 storey development. Please ensure consistency between the information submitted with the application for the site compatibility certificate (SCC). The maximum number of dwellings to be permitted via the SCC should be clearly stated in the application for the certificate.
- Cl. 24(2) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('SEPP Seniors') requires that a consent authority must consider whether the site is suitable for more intensive development and compatible with its surrounding environment.

The proposal is consistent in character to medium-high density residential development. The site is surrounded by open space and low density, low-rise residential development. It would appear that the proposal relies upon the open spaces available within the golf course land itself as the only form of transition between the 5-7

storey development proposed and the surrounding 1 and 2 storey residential development. However, concern is raised that the change in built form character is too abrupt and there is a jarring of scale between this development and the existing immediately surrounding development.

- Similar higher density existing development is more appropriately located in clusters around existing local service centres, convenient to amenities and services. Concern is raised that the scale of the proposed development creates the appearance of a new town centre with no local retailing, services other than that conducted privately on the site by the club. The outcome of locating more people at a higher density than neighbouring areas, some distance away from supporting amenities and services is not considered to be justified at this stage.

Given the above concerns, it is recommended that a development with a lower density than currently proposed be considered as a part of an overall masterplan for the redevelopment of the site.

2. Minimum site requirements

Cl.40 of the SEPP Seniors sets out minimum site requirements for seniors housing. One of the site requirements is a minimum 20m site frontage (measured at the building line). The site frontage to King Street would appear to be under 20m. An objection under State Environmental Planning Policy No.1 – Development Standards (SEPP 1) would need to be submitted at the development application stage. The suitability of the site is a relevant matter for the assessment of the Site Compatibility Certificate pursuant to cl.24(2)(a) of SEPP Seniors. The site frontage provision implies that SEPP Seniors Housing is intended to have direct street frontage in order to facilitate independent and unrestricted pedestrian and vehicular access for the future SEPP seniors residents to the wider locality and local service centres for amenities and services.

3. Location and access to services

Cl.26 of SEPP Seniors requires that seniors housing be located within 400m of shops, banking, retail and commercial services, community services, recreational activities and the practice of a medical practitioner. For the purposes of the assessment of an application for a site compatibility certificate, this clause is a relevant consideration pursuant to Cl.25(5)(b)(iii) of SEPP Seniors.

In relation to access to facilities and services, concern is raised in regard to the suitability of the site due to the following issues:

- The development site would appear to be more than 400m from a local centre containing the necessary facilities and services utilising the existing single access/egress point via King Street.
- The nearest bus stop would appear to be more than 500m from the entry gate to the site at the end of King Street.
- There is currently no suitable access pathway on either side of King Street.

The application for the compatibility certificate should be supported by information demonstrating how future residents will access local services and facilities.

Although a 'courtesy bus' is noted in the plans, details of the terms of service of this courtesy bus have not been provided. It is recommended that detail be provided with the application

for the site compatibility certificate regarding the frequency of services, destinations and ongoing funding and management of this service for the lifetime of the development.

4. Bush fire hazard and evacuation

A portion of the site is mapped as bushfire prone land. The remainder of the site could be considered to be land in the vicinity of land identified as bushfire prone land for the purposes of cl.27 of the SEPP.

Cl.27 of SEPP Seniors requires that it be demonstrated that the development can comply with the document *Planning for Bushfire Protection 2006* and, that the means of access to and egress from the general location in a bushfire event also be considered. For the purposes of the assessment of an application for a site compatibility certificate, this clause is a relevant consideration pursuant to cl.25(5)(b)(i) of SEPP Seniors.

In regard to the management of the bushfire hazard and the suitability of the site for emergency vehicle access and emergency evacuation, the following concerns are raised:

- There is currently only one access/egress point to and from the development site via King Street.
- It is noted that there is an existing electricity substation as well as overhead power lines adjacent to the King Street entrance to the site. These could be a source of fire and represents a potential threat to the continued operation of this egress route in an emergency.
- It is recommended that you liaise with NSW Rural Fire Services and Ausgrid on this issue.
- A bushfire report and evacuation plan addressing the above issues should be submitted in support of the application for the site compatibility certificate.
- Consideration should be given to including a secondary access, even if only for emergency evacuation purposes.
- Should only one access/egress point be pursued, it is recommended that you consider modelling an emergency evacuation event to demonstrate the adequacy of this arrangement.

5. Separation of club-related activities and seniors housing

Cl.23(1) of SEPP Seniors requires that the proposal provide appropriate separation between the club and the seniors housing to avoid land use conflicts.

For the purposes of the assessment of an application for a site compatibility certificate, this clause is a relevant consideration pursuant to cl.25(5)(b)(ii) of SEPP Seniors.

With reference to this required separation, concern is raised with the submitted concept plans in relation to the following issues:

- There would appear to be inadequate separation of pedestrian access and on-site parking between the seniors housing and the club facilities. The two uses appear to be one in the same development. The two uses appear to be sharing the same main pedestrian access and porte cochere. The connection between the two uses as currently shown in the concept plans is considered to be too immediate to adequately manage the above concerns.
- The seniors housing units should have separate and secure on-site parking, separate pedestrian access, separate secure basement parking and storage and, preferably, separate vehicular access into the site, particularly where access to the golf course is closed out of hours. It is noted that cl.40 of SEPP Seniors requires a minimum 20m site frontage to a public street. This would potentially enable the seniors development

to front directly onto a public street and allow future residents to access services and transport independent of the operations of the club.

- The high number of residents living adjacent to and moving around adjacent to fairways and greens should be protected from been struck by golf balls.
- The club includes three function rooms. Measures will need to be put in place to ensure that conflicts do not occur between the operation and use of these function rooms and the amenity of the seniors housing units, particularly in relation to noise nuisance.

6. Proposed non seniors housing uses

Under the Newcastle Local Environmental Plan (NLEP) 2012 the subject land is located in a RE2 Private Recreation zone.

Dual key visitor accommodation

The *dual key* visitor accommodation would not be permissible under the NLEP 2012 and would not constitute seniors housing under the Seniors SEPP.

Clubhouse

The clubhouse redevelopment would be permissible with consent as a registered club.

Wellness centre

The proposed development also includes a 'Wellness Centre' and this centre is proposed to service the future residents of the SEPP Seniors development, club members and, external clients. The fact that it is catering to external clients would prevent this centre from being considered as being ancillary to the SEPP seniors housing or club activities as it is essentially an independently operated business. This use however would be permissible, with consent, as a recreation facility (indoor).

Function Rooms

It is noted that the function rooms are also intended to be separately hired out to non-club members and non-residents as a business separate from club activities. Function centres are a permissible use, subject to consent.

Cumulative Intensity of uses

Concern is raised with regard to the cumulative intensity of use proposed on the site and the potential external impacts on the amenity and character of the surrounding low-density residential area. The cumulative intensity of use proposed would need to be addressed within the SCC and DA.

7. Parking and traffic impact

A parking and traffic impact assessment report is to be submitted in support of the proposal for both the DA and SCC. This report is to examine the likely traffic impacts of the development on the local road network as well as include justification for the provided parking based on an assessment of applicable parking generation rates under section 7.03 of Newcastle Development Control Plan 2012. In particular, the operation of the Glebe Road and King Street intersection is to be considered (pre and post development). Given that the Wellness Centre and Function Centre are proposed to provide services to external clients as

well as future residents and club members, these uses will generate a separate demand for on-site parking in addition to the seniors housing and club activities.

8. Power line easements

The potential six storey development is proposed in close proximity to overhead power lines with parking, the main driveway entry and the entry to the basement level directly under the wires. Concern is raised in regard to whether this contravenes the terms of the easement for the overhead wires. The terms of this easement should be provided with the application for the site compatibility certificate.

It is recommended that you undertake consultation with Transgrid regarding the proposal.

9. Tree removal

An arborist report is required to be submitted to support the development proposal. The report should include details of all necessary tree removal required to enable the development to be constructed and safely used, including any required tree removal to facilitate recommended asset protection zones. The report should identify the species and condition of all affected trees and have regard for the provisions of the *Biodiversity Conservation Act 2016*.

10. Site Contamination

CN records indicate that part of the site (Lot 1 in DP 229558 and Lot 4 in DP 1223244) is potentially contaminated due to above ground and below ground fuel storage activities observed on the site during an environmental audit undertaken on 25 July 2005. Please refer to detailed comments below relating to State Environmental Planning Policy No.55 – Remediation of Land.

11. Waste management

Consideration in the early design stages should be given to construction and on-going waste management for the proposed development. It is recommended you consult with CN's Waste Management Services in this regard. Please contact Waste and Commercial Collections Manager, David Thomas on 49746046.

A detailed Waste Management Plan is to be submitted with the development application which demonstrates how the collection service will be undertaken. The plan is to include details of frequency and the maximum size vehicle. Such collection will need to be achieved without unreasonable impacts on the amenity of the area and/or the traffic environment in the locality of the site.

D. Category of Development

The categorisation of the development according to the *Environmental Planning and Assessment Act 1979* (EP&A Act) will determine the process of assessment. The proposed development is considered to be : Integrated development.

Integrated Development

Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals listed in section 4.46 of the EP&A Act. This is subject to

nomination by the applicant on the development application form. The additional approvals required for the development are identified in the following section of this letter.

E. Bush Fire Prone Land

The site is identified as containing bush fire prone land- Vegetation Category 1, Vegetation Category 2 and Vegetation Buffer. Section 79BA of the EP & A Act 1979, requires all new development on bush fire prone land to comply with the document entitled *Planning for Bush Fire Protection 2006*. The document provides the basis for all bush fire planning and bush fire protection measures for new development in NSW.

Additional information can be obtained from www.rfs.nsw.gov.au.

F. Integrated Development

The following approvals available under the integrated development system are applicable to the development:

Mine Subsidence Compensation Act 1976 - s 15:

The site is located within a Mine Subsidence District. Sites located in Mine Subsidence District are required to gain an approval from the Subsidence Advisory NSW for proposed developments. You are advised to liaise with the Subsidence Advisory NSW before lodging a development application with CN. The Subsidence Advisory NSW office is located at 117 Bull St Newcastle West, phone (02) 4908 4300

The Subsidence Advisory NSW development guidelines can be accessed at www.subsidenceadvisory.nsw.gov.au/development-guidelines.

Rural Fires Act 1997 - s 100 (b):

As indicated above, the site is identified as bush fire prone land. A bush fire authority from the Commissioner of the NSW Rural Fire Service will be required, because the development involves:

- i) subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or
- ii) development of bush fire prone land for a 'special fire protection purpose',

'special fire protection purpose' means the purpose of the following:

- (a) a school,
- (b) a childcare centre,
- (c) a hospital (including a hospital for the mentally ill or mentally disordered),
- (d) a hotel, motel or other tourist accommodation,
- (e) a building wholly or principally used as a home or other establishment for mentally incapacitated persons,
- (f) seniors housing within the meaning of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004,
- (g) a group home within the meaning of State Environmental Planning Policy No 9—Group Homes,
- (h) a retirement village,
- (i) any other purpose prescribed by clause 46 of the Rural Fires Regulation 2013.'

If you wish to apply for an integrated approval, the relevant section of the development application should be completed. With the exception of the Subsidence Advisory NSW, a processing fee is payable, plus an additional fee per approval body must be included with the fees for the development application.

The required permits can be obtained after the assessment of the development application; however, it may be more efficient to address any requirements of the permit in your development application.

G. State Environmental Planning Policies

The following State environmental planning policies (SEPP) apply to the development.

State Environmental Planning Policy No. 55 - Remediation of Land

This policy applies to the proposed development and contains planning controls for the remediation of contaminated land.

Clause 7 provides that prior to granting consent to the carrying out of any development on land the consent authority is required to give consideration as to whether the land is contaminated and, if the land is contaminated, whether the land is suitable for the purpose of the development or whether remediation is required.

As indicated above, CN records contain documents regarding potential contamination on the land. The policy and section 5.2 of the DCP 2012 require a preliminary site investigation to be carried out in accordance with the 'Guidelines for Consultants Reporting on Contaminated Sites'. The site is flagged due to fuel storage activities observed during a CN environmental audit undertaken in 2005. Notes from audit are as follows:

'1000ltr diesel tank raised 2 meters a single row of besser block bunding. If a spill occurred the spill velocity would project past the bund rendering it ineffective. They have been informed that the besser blocks are too porous.'

1000ltr ULP underground tank dispensed by a bowser, there are no protective structure around the pump, however if bowser was removed it would expose a opening no pressure involved."

Depending on the results of the Preliminary Site Investigation, it may be necessary to carry out a Detailed Site Investigation and if that investigation concludes that the site is not suitable for the proposed use in its present state and category 1 remediation is required, a Remedial Action Plan is required to be prepared and submitted for consideration prior to the determination of any application for a contaminated land site.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Buildings

The proposed development is subject to the requirements of SEPP No. 65 – Design Quality of Residential Apartment Development. This policy aims to improve the design quality of residential apartment developments, shop top housing or mixed-use development with a residential component of three or more storeys with four or more dwellings.

Apartment Design Guide

The Apartment Design Guide is a set of guidelines that provides benchmarks for better practice in the planning and design of residential apartment buildings to achieve environmental sustainability, improved energy efficiency and residential amenity and higher design quality to improve the presentation of the building to the street. The guide achieves this by providing controls to ensure that developments respond to their local context and provide a suitable site analysis and quality design.

The development application must be accompanied by a design verification and statement prepared by a '*qualified designer*' which indicates that they directed the design and demonstrates how the design quality principles set out in Schedule 1 of the policy and the objectives in Parts 3 and 4 of the Apartment Design Guide have been achieved. A '*qualified designer*' means a person registered as an architect in accordance with the *Architects Act 2003*.

Urban Design Consultative Group

Applications that are subject to assessment under this policy will be required to have the development reviewed by the CN's Urban Design Consultative Group. To reduce the processing times, it is strongly recommended that the review of the development occur before the lodgement of the development application. Alternatively, a referral will be done when a development application is submitted.

For further information regarding the application fees, the next available meeting of the Group and the deadline for lodging an application, please contact America Pati, Senior Business Officer, on 4974 2732 or by email on apati@ncc.nsw.gov.au.

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

All residential development is required to comply with the Building Sustainability Index (BASIX) which is a web-based planning tool designed to assess the water and energy efficiency of new residential developments. Use the design details to complete an assessment on the BASIX web site - www.basix.nsw.gov.au. To get a BASIX Certificate you must show that the proposed dwellings will be designed and built to use 40% less mains supply water and produce 25% less greenhouse gas emissions.

Any development application for the proposal must be accompanied by a BASIX Certificate and certain commitments that are nominated in the BASIX Certificate must be shown on the plans.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

This policy encourages the provision of housing that meets the needs of seniors or people with a disability. The policy sets out site-related requirements, design requirements and development standards for the following types of seniors housing:

- a residential care facility
- a hostel
- self-contained dwellings

The proposal is consistent with the definition of in-fill self-care housing, which is a form of self-contained dwelling seniors housing development. Detailed comments in relation to this policy are provided above in Section C of this letter.

State Environmental Planning Policy (Infrastructure) 2007

This policy facilitates the effective delivery of infrastructure across the State. The development is subject to the following requirements of the policy:

Impact of road noise or vibration on non-road development

The development is located on land in or adjacent to a road corridor for a freeway, a tollway or a transit way or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and:

- (a) residential accommodation,
- (b) a place of public worship,
- (c) a hospital,
- (d) an educational establishment or centre-based childcare facility.

Clause 102 provides that the consent authority must take into effect any guidelines that are issued on the impact of road noise or vibration for the purpose of this clause.

Development for the purpose of residential accommodation must have appropriate measures incorporated to ensure the following noise levels are not exceeded:

- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

An acoustic report will be required to be submitted with any development application to demonstrate compliance with these requirements.

Development impacted by an electricity tower, electricity easement, substation, power line

Clause 45 of the policy requires the consent authority to give written notice to the electricity supply authority and invite comments about potential safety risks when applications for the following development are received:

- (a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower*
- (b) *development carried out:*
 - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line,*
- (c) *installation of a swimming pool any part of which is:*
 - (i) *within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) *within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
- (d) *development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is*

in force between the electricity supply authority and the council for the land concerned.'

It is recommended that you liaise with Ausgrid (substation) and Transgrid (high voltage) regarding any requirements your application may be subject to.

Traffic generating development

Clause 104 applies to development specified in Column 1 of the Table to Schedule 3 of the policy that involves:

- (a) new premises of the relevant size or capacity, or
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

The proposed development is a 'traffic generating development' as identified in Schedule 3. This clause provides that before determining a development application for the above development, the consent authority give written notice of the application to Roads and Maritime Services (RMS) and take into consideration any submission from the RMS and the accessibility of the site, including:

- '(i) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
- (ii) the potential to minimise the need for travel by car,'*

The consent authority is also required to consider any potential traffic safety, road congestion or parking implications of the development.

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

The aims of the policy are to protect biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

Clearing

Clearing that is ancillary to a development will be assessed as part of the development assessment process and may in some circumstances require further assessment and approval under the *Biodiversity Conservation Act 2016*.

Trees

Consent is required to carry out any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation that is a prescribed (declared) tree in Section 5.03 -Vegetation Management of the Newcastle Development Control Plan, 2012. Any development application submitted should include a comprehensive arborist report and a tree retention assessment value in accordance with the Urban Forest Technical Manual.

Native vegetation

If the development involves the clearing of native vegetation a flora and fauna assessment is required to be provided with the application to enable an assessment of the application under Part 5 of the policy. The assessment must address any threaten species, critical habit protected flora or fauna, or vulnerable species, that may be impacted by the proposal.

H. Newcastle Local Environmental Plan 2012

The site is located on land in Zone RE2 Private Recreation and the proposed development is prohibited as a seniors housing development under the Newcastle Local Environmental Plan 2012 (NLEP 2012). However, it is permissible with consent under the provisions of SEPP Seniors once a site compatibility certificate has been issued.

The following clauses in NLEP 2012 are relevant to the proposed development:

Clause 4.1 - Minimum subdivision lot size

The minimum lot size permitted on the site is 40ha.

Clause 4.6 – Exceptions to development standards

This clause enables a case to be made in the development application for an exception to a development standard. The written request must address the specific requirements of Clauses 4.6 (3) and (4) of the NLEP. A copy of these clauses can be downloaded from CN's website at www.newcastle.nsw.gov.au.

Clause 5.10 – Heritage conservation

The subject site is located within the vicinity of a heritage item, being the former rifle range at 351 Brunner Road, Adamstown under the NLEP 2012.

A heritage impact statement will be required to be submitted with any development application outlining the impact of the development on the heritage significance of the item.

Clause 6.1 – Acid Sulfate soils

The proposed development is affected by acid sulfate soils and will be subject to an assessment against clause 6.1 of the LEP. Council's records indicate that the land contains Class 5. As the works are not within Class 1-4, no Acid Sulfate Soils Management Plan is required to be submitted with the development application.

Clause 6.2 – Earthworks

The proposal includes earthworks that require consent. When considering a development application that involves earthworks, the consent authority must consider the following matters:

- (a) *'the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*
any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.'

Any development application submitted should address the above matters.

I. Flooding

A portion of the land is subject to flooding, however, it does not include the portion of the site where the proposed senior housing development is to be located. The development is to comply with the relevant requirements of Section 4.01- Flood Management of DCP 2012. For further information regarding flooding in the LGA, refer to 'Newcastle City-Wide Floodplain Risk Management Study and Plan' (June 2012). A copy of this document can be downloaded from CN's website

J. Newcastle Development Control Plan 2012 (DCP 2012) and Technical Manuals

The proposal must consider all relevant elements of DCP 2012 and the Technical Manuals. The relevant sections of the DCP and the Technical Manuals are listed below:

Section 1.00 - Introduction

Section 2.00 - How to use this DCP

Section 3.00 - Landuse Specific Provisions

Section 3.03 Residential Development

Section 4.00 - Risk Minimisation Provisions

Section 4.01 Flood Management

Section 4.02 Bush Fire Protection

Section 4.03 Mine Subsidence

Section 4.04 Safety and Security

Section 4.05 Social Impact

Section 5.00- Environmental Protection Provisions

Section 5.01 Soil Management

Section 5.02 Land Contamination

Section 5.03 Vegetation Management

Section 5.04 Aboriginal Heritage

Section 5.05 Heritage Items

Section 6.00 - Locality Specific Provisions

Section 7.00 - Development Provisions

Section 7.02 Landscaping Open Space and Visual Amenity

Section 7.03 Traffic, Parking and Access

Section 7.04 Movement Networks

Section 7.05 Energy Efficiency

Section 7.06 Stormwater

Section 7.07 Water Efficiency

Section 7.08 Waste Management

Section - 8.00 - Public Participation

Section- 9.00 Glossary

Technical Manuals and Additional Information

Contaminated Land Management Technical Manual

Urban Forest Technical Manual

Heritage Technical Manual

Landscape Technical Manual

Waste Management Technical Manual

K. Development Contributions Plans

The proposed development would attract a development contribution to City of Newcastle. Sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979* enable a consent authority to levy contributions for public amenities and services.

Section 94 Contributions are imposed by way of a condition of development consent or complying development, and can be satisfied by

1. Dedication of Land
2. A monetary contribution
3. A material public benefit; or

A combination of some or all of the above.

Section 94A Development Contributions Plan 2009

The City of Newcastle Section 94A Development Contributions Plan 2009 (Updated August 2017) applies to the entire Local Government Area excluding Blue Gum Hills (Minmi, Maryland and Fletcher). Where this Plan applies no Section 94 levy will apply.

Part A of the Plan collects contributions for industrial, commercial and urban housing development which has an estimated cost of over \$100,000. It applies to the entire Local Government Area except Blue Gum Hills and the City Centre and collects for various works including community facilities, open space, cycleways and traffic management. The Section 94A contributions levy for land in Part A is as follows:

| Proposed cost of the development | Maximum % of the levy |
|---|------------------------------|
| Up to \$100,000 | Nil |
| \$100,001 - \$200,000 | 0.5% |
| More than \$200,000 | 1.0% |

Where the estimate of the proposed cost of the carrying out the development is less than \$500,000 a cost summary report prepared in accordance with Appendix A of the Plan is to be submitted in support of the development application.

Where the estimate of the proposed cost of the carrying out the development is \$500,000 or more a detailed cost report prepared in accordance with Appendix A of the Plan is to be submitted in support of the development application.

L. Advisory Matters

Hunter Water Act 1991

Plans will be required to be stamped by Hunter Water prior to submission to CN. It will be necessary to complete a Building Plan Assessment Application and pay the associated fee. Hunter Water are located at 36 Honeysuckle Drive, Newcastle or can be contacted on 1300 657657. For more information regarding this process and to download an application form go the Building and Development portal of the Hunter Water website at www.hunterwater.com.au

Mine Subsidence Act 1961

Plans will be required to be stamped by Subsidence Advisory NSW prior to submission to CN.

M. National Construction Code - Building Code of Australia

It would be advisable to seek independent advice regarding the development's compliance with the National Construction Code. Your attention is particularly drawn to the Disability (Access to Premises- Buildings) Standards 2010 that aims to provide access to buildings, and facilities and services within buildings to people with a disability.

N. Submission Requirements

Copies of the relevant checklists and the appropriate application can be downloaded from CN's website. The relevant form and checklist are listed below.

Forms

Development application form

Checklist

O. Roads Act 1993

Part 8, Division 2

Part 8, Division 2 Applications under part 8 of the Act are required for works that will 'regulate traffic'. Regulating traffic is '*works involving traffic signals, roundabouts and the banning of turns into roads*'. It is recommended that you apply for this approval, at the same time as applying for your development application. A dual assessment will ensure that all matters impacting on the development design and operation are considered before works commence.

Section 138

City of Newcastle (Council) is the approval body for King Street. An approval is required under Section 138 of the *Roads Act 1993* to:

- (a) *erect a structure or carry out a work in, on or over a public road, or*
- (b) *dig up or disturb the surface of a public road, or*
- (c) *remove or interfere with a structure, work or tree on a public road, or*
- (d) *pump water into a public road from any land adjoining the road, or*
- (e) *connect a road (whether public or private) to a classified road,*
- (f) *otherwise than with the consent of the appropriate roads authority.*

Any development application submitted to CN will include a preliminary assessment of the matters listed above and if the development is approved, conditions will be included requiring a separate 138 application to be submitted with design details for the work. Where the works will involve traffic regulation a separate report to CN will be required and, consequently any application should be submitted in a timely manner, to prevent delays.

P. Public Participation

It is recommended that consultation with adjoining property owners and occupiers and other potential affected properties be undertaken prior to submission of a development application. Major development proposals should be discussed with the affected community in a formal manner before design finalisation and the lodgement of a development application.

This process will ultimately improve communication, increase understanding of the proposal and reduce process delays that can be experienced in the development application process.

Q. Consent Authority

The site compatibility certificate is lodged with the Department of Planning and Environment and is determined by the Hunter & Central Coast Regional Planning Panel.

Any subsequent proposed development application is lodged with CN and will also be determined by the Hunter and Central Coast Joint Regional Planning Panel. The Panel is the consent authority for 'regionally significant development' which includes:

- General development with a capital investment value (CIV) over \$30 million.
- Council related development with a CIV over \$5 million. Crown development with a CIV over \$5 million.

- Private infrastructure and community facilities with a CIV over \$5 million.
- Eco-tourist facilities with a CIV over \$5 million.
- Particular designated development for the purposes of extractive industries, waste facilities and marinas.
- Certain coastal subdivisions within the coastal zone.
- Development with a CIV between \$10 million and \$30 million, which are referred to the panel by the applicant after 120 days.

R. Conclusion

A preliminary assessment of your proposal has identified a number of specific matters that are considered to warrant further detail, consideration and amendments prior to the submission of an application for a site compatibility certificate and development application. A lower form of residential density than currently proposed is considered to have merit as a future use. Based on the information currently submitted however, the proposal would be unlikely to be supported in its present form. A reduction in the density of the development proposed and the intensity of land use is recommended. It is also recommended that a comprehensive master plan of all foreseeable future redevelopment of the site be produced to address the issues raised.

Once a development application is submitted, Council officers may request that the applicant present the proposal to Councillors in addition to the JRPP briefing requirement. This can be further discussed during the assessment of the future development application.

All efforts are made to identify issues of relevance and likely concern with the preliminary proposal. However, the comments and views in this letter are based on the plans and information submitted for preliminary assessment and discussion with the pre-development application.

You are advised that:

- the views expressed may vary once detailed plans and information are submitted and assessed in the development application process, or as a result of issues contained in submissions by interested parties;
- amending one aspect of the proposal can result in changes which can create, different set of impacts from the original plans; and
- the comments do not bind CN Officers, the elected Council members, or other bodies beyond CN, in any way whatsoever.

For further enquiries please contact me on 4974 2058 or by email at gedgar@ncc.nsw.gov.au.

Yours faithfully

Gordon Edgar
SENIOR DEVELOPMENT OFFICER