

PRE-DEVELOPMENT APPLICATION

9 December 2016



Mr Murray Towndrow
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Dear Mr Towndrow

Pre-Development Application No:	PR2016/00106
Land:	Lot 13 DP 227704 Lot 14 DP 227704 Lot 82 DP 1138209 Lot 81 DP 1138209
Property Address:	125 Chatham Street Broadmeadow
Proposed Development:	Demolition of existing structures and construction of stables to accommodate 500 horses over a number of stages.

A. Summary

I refer to the Pre-Development Application for the above development on land known as 125 Chatham Street, Broadmeadow. I also refer to the meeting held on Friday 25 November, 2016 with Council officers in respect of the above development.

The following preliminary planning advice and information is provided to assist in the preparation of a Development Application (DA). The advice consists of:

1. 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.
2. Specific matters that are considered to warrant further detail, consideration or amendments prior to the submission of a development application. In reference to this, the issues raised in this report and summarised below need to be appropriately addressed in any subsequent development application.

- i) Traffic Impact Assessment
- ii) Acoustic Assessment
- iii) Odour Assessment
- iv) Heritage Assessment
- v) Streetscape
- vi) Keeping of horses

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.

B. Type of Development

The categorization of the development according to the *Environmental Planning and Assessment Act 1979* (EP&A Act) will determine the process of assessment and the appeal times to the NSW Land & Environment Court available under the EP&A Act. The proposed development is considered to be:

- (a) Local Development. A development is considered to be local development if a local environmental plan (LEP) or State environmental planning policy (SEPP) states that development consent is required before the development can take place. A development application is taken to be refused if a consent authority has not determined the application within 40 days.
- (b) 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 91 of the EP&A Act. This is subject to nomination by the applicant on the development application form. A development application is taken to be refused if a consent authority has not determined the application within 60 days. (other than integrated development that, pursuant to [State Environmental Planning Policy No 62—Sustainable Aquaculture](#), is Class 1 aquaculture development).
- (c) Advertised Development. [Clause 5 of the Environmental Planning and Assessment Regulations 2000](#) Certain types of development can be declared to be ‘advertised development’, the effect of which is to impose additional public notification requirements on all development applications which fall within this.

As per Clause 5(2) (d) of the EP&A Regulation, the following development is identified as ‘advertised development’ by the Newcastle Development Control Plan, 2012

- Demolition or removal of a heritage item or demolition or removal of a building or work that is within a heritage conservation area, except for demolition or removal or partial demolition of a building or work within a heritage conservation area which, in the opinion of council, is of a minor nature and would not adversely affect the heritage significance of the heritage conservation area

Apart from additional advertising and public notification requirements, the approval process for advertised development remains the same as local development.

A development application for advertised development is taken to be refused if a consent authority has not determined the application within 60 days.

C. Integrated Development

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

- (a) [Mine Subsidence Compensation Act 1976 - s 15](#): The site is located within a Mine Subsidence area. Sites located in Mine Subsidence areas are required to gain an approval from the Mines Subsidence Board for proposed developments. You are advised to liaise with the Mine Subsidence Board before lodging a development application with Council. The Mine Subsidence Board is located at 117 Bull St Newcastle West, phone (02) 4908 4300 (see <http://www.minesub.nsw.gov.au> for more information).

If you wish to apply for an integrated approval, the relevant section of the development application should be completed. With the exception of the Mines Subsidence Board, a \$140 processing fee is payable, plus an additional \$320.00 per approval body must be include with the fees for the development application.

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.

D. State Environmental Planning Policies

The following State Environmental Planning Policies (SEPP) apply to the development.

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

SEPP 55 applies to the proposed development and contains planning controls for the remediation of contaminated land. Newcastle Development Control Plan Element 5.2 – Contaminated Land Management provides detailed guidelines, controls and procedure for remediation of contaminated lands.

The subject site may be potentially contaminated. SEPP 55 and DCP 2012 require a preliminary site investigation to be carried out in accordance with the [Guidelines for Consultants Reporting on Contaminated Sites](#). Dependent 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 Council's consideration prior to the determination of any application for a contaminated land site.

State Environmental Planning Policy No 64—Advertising and Signage

The proposed signage is subject to an assessment under SEPP Policy No. 64 – Advertising and Signage. This policy aims to provide to regulate signage and provide signage that is compatible with the desired amenity and visual character of an area.

Due to the size and location of the sign, any development application submitted will require the concurrence of the Roads and Traffic Authority and/or the Department of Planning and Infrastructure.

State Environmental Planning Policy (Infrastructure) 2007

This policy facilitates the effective delivery of infrastructure across the State. The development is subject to the requirements of this SEPP and must be satisfied.

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

Clause 45 of State Environmental Planning Policy - (Infrastructure) 2007 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 (low voltage) regarding any requirements your application may be subject to.

E. Newcastle Local Environmental Plan 2012

The site is zoned RE2 Private Recreation and the proposed development is permissible as a Recreation Facility (Major) under the [Newcastle Local Environmental Plan No. 2012](#) (NLEP 2012)

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

1) Clause 5.9 – Preservation of trees or vegetation

Consent is required to carry out any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation that is not a prescribed tree in [Section 5.03 Tree Management](#) of the Newcastle Development Control Plan, 2012. Any development application submitted to Council should include a tree retention assessment value in accordance with the [Urban Forest Technical Manual](#).

The proposal should be designed not to impact on any existing or proposed tree located within the road reserve. Any proposed driveway crossing should be set back, a minimum of 3.0 metres from the outside edge of the tree trunk closest to the driveway and 0.75m from the centre of any pole or pillar.

2) Clause 5.10 – Heritage conservation

The subject property is listed as a heritage item under the provisions of the NLEP.

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.

3) **Clause 6.1 – Acid Sulfate soils**

Acid sulfate soils contain highly acidic soil layers resulting from the aeration of soil materials that are rich in iron sulphides, primarily pyrite. The soil material has a pH of less than 4 when measured in dry seasonal conditions.

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 4. The following table summarises when an Acid Sulphate Soils Management Plan is required to be submitted with the development application.

Class of soil	Works to which this clause applies
4	Works more than 2 metres below the natural ground surface OR Works by which the water table is likely to be lowered more than 2 metres below natural ground surface.

Development consent is not required under this clause to carry out any works if:

- (a) the works involve the disturbance of less than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins), foundations or flood mitigation works, or
- (b) the works are not likely to lower the watertable.

Flooding

The site is subject to flooding. For more detail on the acceptable floor levels and other construction requirements a Flood Information Certificate should be obtained. [Section 4.01 Flood Management](#) of NDCP 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 Council's website.

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

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

1.00 Introduction



[Section 1.00 Introduction](#)

2.00 How to use this DCP



[Section 2.00 How to use this DCP](#)


4.00 Risk Minimisation Provisions



[Section 4.01 Flood Management](#)

 [Section 4.03 Mine Subsidence](#)

 [Section 4.04 Safety and Security](#)

 [Section 4.05 Social Impact](#)

5.00 Environmental Protection Provisions

 [Section 5.01 Soil Management](#)

 [Section 5.02 Land Contamination](#)

 [Section 5.03 Tree Management](#)

 [Section 5.04 Aboriginal Heritage](#)

 [Section 5.05 Heritage Items](#)

 [Section 5.06 Archaeological Management](#)

7.00 Development Provisions

 [Section 7.01 Building Design Criteria](#)

 [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 7.09 Outdoor Advertising and Signage](#)

8.00 Public Participation

 [Section 8.00 Public Participation](#)

9.00 Glossary

 [Section 9.00 Glossary](#)

Technical Manuals



[Contaminated Land Management Technical Manual](#)



[Urban Forest Technical Manual](#)



[Heritage Technical Manual](#)



[Landscaping Technical Manual](#)



[Stormwater and Water Efficiency Technical Manual](#)



[Waste Management Technical Manual](#)



[Outdoor Advertising Technical Manual](#)

G. General Comments

A preliminary assessment of your proposal has raised the following issues which need to be addressed in any future development application:

1. Traffic Impact Assessment

A Traffic Impact Assessment report prepared by a qualified traffic consultant and addressing the relevant heads of consideration under the Roads & Maritime Services publication 'Guide to Traffic Generating Developments' is required. Particular regard should be made to Council's parking rates as outlined under DCP 2012.

Note: Council would be seeking for the informal staff car park to form part of the development application. The car park would need to be sealed and landscaped.

2. Acoustic Assessment

The proposed development has the potential to generate adverse noise impacts for surrounding residential properties. Potential noise sources will include loading/unloading of horses and/or feed, wastes and bedding equipment and general noise from the stabling/training of horses at the facility. Therefore, a noise impact assessment prepared by a suitably qualified acoustical consultant will be required to be submitted as part of any future application.

3. Odour Assessment

The proposed development has the potential to generate odour impacts for surrounding residential properties. Potential odour sources include the stable facility and waste storage areas. Therefore, an odour impact assessment prepared by a suitably qualified consultant will be required to be submitted as part of any future application.

4. Heritage Assessment

As indicated previously in this letter, the Broadmeadow Racecourse site (known as 100 Darling Street) is identified by the Local Environmental Plan 2012 as a heritage item of local significance.

According to the Urbanise Consulting report submitted in support of the Pre-Development Application, the listing of the racecourse is linked with *'the cultural significance of the site and its use as racecourse for the importance of the growing community at the time'*. However, a report prepared in 2001 by Ecotecture Pty Ltd suggests that the listing may not have been entirely based on cultural significance.

Ecotecture Pty Ltd was engaged by Council to review objections and nominations (heritage listings) to the draft Newcastle LEP 2000. The recommendations of the report were adopted by Council as part of the finalisation of the LEP exhibition process and the items were included in the listings of the Newcastle LEP 2003.

The report identified a number of significant building and features on the site:

'The most significant buildings on the site include the main Public Grandstand, the Members Grandstand and the old Tote building (now the equine hospital). The base section of the other public grandstand at the former St Ledger is possibly the remnant of the grandstand that was relocated from the old course, with the roof being altered c.1950's, though this requires further investigation. The 2 storey building referred to as the Semaphore box also warrants further investigation. Other buildings of slightly lesser significance are the canteen building and the toilet/maintenance building. Other significant features include the octagonal horse trough, the finishing post, and the various mature trees including date palms, pines, and the many topiaried figs.'

Given that further development of the course was intended, the report strongly recommended:

'the owner prepare a heritage assessment or conversation plan in order to more fully identify the significance of individual elements, and once endorsed by Council this will provide certainty as to how future modifications can be implemented.'

It is not known if the recommended heritage assessment/conservation plan was prepared by the owner. It is recommended the heritage impact statement required to be prepared in support of the development application has regard to the findings of the Ecotecture report. A copy of the report can be downloaded from 'heritage publications' of the Explore portal of Council's website at www.newcastle.nsw.gov.au.

5. Streetscape

The interface between the proposed stables and the R2 zone (including a school) would need to be setback five metres from the property boundary and incorporate appropriate screening landscaping to ensure a consistent setback and the development makes a positive contribution to the streetscape.

Council supports the suggested plantings and public domain works along Chatham Street.

6. Keeping of horses

Council would be seeking a statement of compliance against the Department of Primary Industries *'minimum standards for keeping horses in urban areas'* (Factsheet 16). It is also suggested that you review section 3.5.2 - Keeping of Horses of the Broken Hill Development Control Plan 2016. Whilst this is not a document that has been adopted by Newcastle City Council, it is considered a good resource and should be carefully considered in your documentation to Council for any future DA.

7. Consultations with neighbours

In general, developments of the type proposed tend to be controversial and Council recommends early consultation with adjoining neighbours. It is suggested that you consider organising a community meeting and/or a letter box drop to adjoining neighbours explaining the proposed development.

H. Development Contribution Plans and Voluntary Planning Agreements

The proposed development would attract a development contribution to Council. Sections 94 and 94A of the *Environmental Planning and Assessment Act 1979* enables Council 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 2015) 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 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.

According to the application form the estimated cost of the development is \$15mil. The contribution levy for a development having a cost greater than \$200,000 is 1.0% of the development costs.

Where the estimate of the proposed cost of the carrying out of 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.

I. Advisory Matters

Hunter Water Act 1991 - Plans will be required to be stamped by Hunter Water prior to submission to Council. Hunter Water are located at 36 Honeysuckle Drive, Newcastle or can be contacted on 1300 657657.

Mine Subsidence Act 1961- Plans will be required to be stamped by Mine Subsidence Board prior to submission to Council. The offices of the Board are located at 117 Bull St Newcastle West and can be contacted on (02) 49084300 (see <http://www.minesub.nsw.gov.au> for more information).

J. National Construction Code - Building Code of Australia

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

K. Submission Requirements

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

Form



[Development application form](#)



[Development and Construction Certificate Application and Appointment of a Principal Certifying Authority](#)

L. Roads Act 1993 Approvals

Section 138

Council is the approval body for Chatham 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 Council 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 Council will be required and, consequently any application should be submitted in a timely manner, to prevent delays.

M. 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.

N. The Development Process

The following information is provided to advise you of the processes that any development application for the subject proposal would be subject to:

1. Type of Development

- (a) Local Development
- (b) Integrated Development - subject to nomination on the development application form
- (c) Advertised development.

2. Determining Authority

Any proposed development application is likely to be determined by:

- (a) The Joint Regional Planning Panel (JRPP)
The Joint Regional Planning Panel makes decisions on 'regional developments', which include:

- development with a CIV between \$10 million and \$20 million which are referred to the regional panel by the applicant after 120 days.
- (b) **The Council**
A determination by Council could result in a determination of the application being made by either a Development Officer; or the Development Applications Committee (consisting of Councillors).

Applications that meet one or more of the following criteria are required to be determined by the Development Applications Committee:

- i) have more than 25 objections.
- ii) have a cost of works greater than \$10 million.
- iii) conflict with Council's adopted objectives and policies (except in relation to minor departures where strict compliance would be unreasonable or unnecessary) and the application is being recommended for approval.
- iv) have two requests in writing, from councillors requesting the application be determined by the Development Applications Committee.

O. Conclusion

A preliminary assessment of your proposal has identified a number of specific matters that are considered to warrant further detail, consideration or amendments prior to the submission of a 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 Council Officers, the elected Council members, or other bodies beyond Council, in any way whatsoever.

For further enquiries please contact me on 49742747 or by email on dpaine@ncc.nsw.gov.au.

Yours faithfully

David Paine
SENIOR DEVELOPMENT OFFICER