

Response to Newcastle City Council's Submission

RE: Response to Submission from Newcastle City Council on Mixed Use Development (SSD 8440) at 42 Honeysuckle Drive, Newcastle NSW 2300

As a result of the public exhibition process of State Significant Development (SSD 8440) a submission was received from the Newcastle City Council (Council) outlining a number of concerns.

The Department of Planning and Environment (Department) have requested that the submission be addressed as part of the assessment process. Consequently, please find below a summary of the points raised by Council and the corresponding response.

1 Newcastle Local Environmental Plan 2012

The submission notes concern over the permissibility of the use of a residential flat building as a residential flat building is prohibited in the land use table of the B3 Commercial Core Zone.

The submission goes on to refer to clause 7.7 of the Newcastle Local Environmental Plan 2012 (LEP 2012). Clause 7.7 States:

'Development consent must not be granted to a residential flat building on land in Zone B3 Commercial Core unless it is a component of a mixed use development involving a permitted non-residential use.'

Council states that Clause 7.7 was proposed to be removed from LEP 2012 in an update in March 2014. Without explanation the clause was not removed and therefore the clause remained, and still remains in LEP 2012.

The proposed development seeks approval for retail premises, tourist and visitor accommodation, and a residential flat building. The uses of commercial premises and tourist and visitor accommodation are permitted with consent in the B3 Commercial Core Zone. As the development consists of mixed uses the residential flat building component becomes permitted with consent under Clause 7.7 of the LEP. Therefore there is no legitimate reason that the proposal does not comply regarding permissibility.

It is intended that the hotel operation will operate as per the application, and will not be converted to residential. This is further supported by the design of the hotel rooms which do not have opening windows or private open space areas. Facilities that have been provided specifically for the hotel such as the gym and lounge areas are not accessible for residents and will not be available for occupants of the residential units.

2 Built Form and Urban Design

During the pre application stages of the proposal, the development was presented to Newcastle's Urban Design Consultative Group (UDCG). Council's concern is that the UDCG, while supportive of the proposal, requested that the development should be reviewed by the Panel at DA Stage.

"The preliminary application is of generally good quality and is supported in principle the developed design should be reviewed by the Panel at DA stage"

Council notes that the development did not return to the UDCG for further review prior to the lodgement of an application.

As part of the process for the SSD, it is not necessary for the proposal to be reviewed by the UDCG. The submission of the design to the UDCG was carried out as a courtesy rather than a legislative requirement.

In addition to the UDCG panel reviewing the design, the design was also heavily reviewed during the tender process by the Hunter Development Corporation and their consultants. Further, the design was also referred to the NSW Government Architect who provided comment on the design.

3 Newcastle Development Control Plan 2012

Council raised concerns relating to the building setbacks not complying with the Newcastle Development Control Plan controls. Specifically, Section 6.01.03 – building form which relates to side and rear setbacks.

Council specifically raised the concern that the development, while being for mixed use, had applied the side and rear setback provisions as indicated in SEPP 65 for residential development to the development as a whole which includes retail and tourist and visitor accommodation. Council argued that the non-residential uses should not simply comply with the residential setbacks prescribed by SEPP 65 and the Apartment Design Guidelines.

Council's Urban Design Consultative Group (UDCG), provide independent, expert advice to Council and the proponent about the quality of the urban design and amenity of the proposed development. The proposed development at 42 Honeysuckle Drive was presented to the UDCG 19 July 2017. The panel reviewed the proposal in relation to setbacks and provided the following comment:

"The five-storey podium form containing the hotel would provide a comfortable human scale in the immediate vicinity, with the four-storeys of residential apartments sufficiently set back from the all four facades not being unduly visually assertive. Colonnading at the ground floor and activation of the Honeysuckle Drive frontage is appropriate and fully supported."

While the setbacks don't necessarily comply with Council's DCP, the panel confirmed that the design is appropriate and is not unduly visually assertive. In addition, it should be noted that SSD does not have to comply with DCPs.

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

An amended BASIX certificate has been provided based on the revised plans prepared in response to this submission and the issues raised by the Department.

5 Section 94A Development Contributions Plan 2009

Council argued that their S94A development contribution plan is relevant and that the maximum percentage being a 3% levy be applied to this project. The EIS notes that it is likely that the SSD will have the 3% levy requirement applied to it.

Council's submission is in line with what was proposed in the EIS.

6 Flood Management

The majority of the ground floor slab, with the exception of the southern parking area, is set at 3.0m AHD rather than 2.9m AHD.

All electrical fixtures on the ground floor level will be located above the flood planning level of 2.9m AHD.

Lift 'P' opens only into the public entry area and not into the residential lobby. Both of these lobbies have also been set at 3.0m AHD.

The pump room that was located on ground level has now been relocated to the rooftop.

7 Stormwater and Groundwater Management

Regarding stormwater and groundwater management, Council has raised concern that there may be potential for nuisance stormwater run-off to adjoining properties.

A stormwater management plan has been prepared by Northrop Engineering which includes a proposed stormwater management strategy for the site.

The stormwater management strategy notes that runoff from new roof areas will be collected and diverted to a re-use tank. Overflow from the re-use tank will be collected and conveyed through a proprietary water quality treatment system before connecting to the existing stormwater line in Honeysuckle Drive.

The stormwater management plan has been prepared in order to manage all stormwater on site. Council's concerns have been addressed in the management plan and strategy.

8 Traffic and Parking

Council has provided a number of comments relating to traffic and parking which were provided by an engineer within Council.

Below is a direct response to each of the comments raised:

- a) *The proposed hotel drop-off on Honeysuckle Drive is not supported as it removed four kerbside parking spaces. Accordingly, the proposed drop off area will need to be relocated on site.*

The proposed hotel drop-off has been addressed in section 3 of the response to the Department's letter. To briefly summarise, the carparking spaces are not proposed to be removed for the hotel drop-off. The spaces will remain and will be a short term parking spaces such as 5 or 15 minutes.

- b) *Further information is required as to how the ground floor parking area will be managed to accommodate the parking of vehicles by both hotel guests and the general public.*

The carpark will be managed by a 3rd party operator. General public wishing to utilise the site will undergo numberplate recognition technology to register and record their parking movements. Hotel guests will have separated access to parking and access will likely be via a fob key.

- c) *The submitted plans do not clearly identify the visitor parking for the residential units, the allocation of parking for the retail unit, hotel parking, public parking and staff parking.*

The latest iteration of plans indicates which spaces are designed for retail, hotel and resident parking.

- d) *It is not clear from the submitted plans as to whether the development will include roller gates or boom gates and ticket booths for the driveway. If such a facility is proposed, it would need to be designed to provide on-site queue distance for two vehicles, while also allowing clear sightlines for vehicles exiting the site.*

Neither roller doors or boom gates are intended to be installed. Licence plate recognition will be the likely mechanism to registering of vehicles entering the site. This will negate any possible queueing onto the site as there will be no restriction to the flow of traffic by means of a boom gate or roller door. This will also mean that there will be no sightline concerns for vehicles exiting the carpark.

- e) *Concern is raised regarding the potential for conflict between vehicles utilizing the internal ramp system and the movement of other vehicles circulating in the ground floor parking area.*

The only vehicles that will be utilising the ground floor area are service vehicles. These service vehicle will not provide any potential conflict to vehicles coming or going from the main carpark ramps, other than when they are arriving and leaving the site.

- f) *The ground floor loading dock and parking area (i.e. hotel & public car parking) is to be designed in a manner which can provide for safe access for pedestrians and people with diasabilitiy to the lift and the hotel lobby.*

The loading dock and parking areas will have line marking on the surface to direct pedestirans in a safe route to the lift and lobby areas.

- g) *The 'public car park entry' from Honeysuckle Drive frontage will need to be separated from the exit driveway to mitigate the potential for pedestrian/vehicular conflict. Details required.*

A 1m median is provided separating the entry and exit lanes to the carpark (this is shown on the amended floor plan). The total driveway crossover width of 7.8m allows sufficient room for two vehicles to pass on the footpath crossover while leaving sufficient room, if need be, for pedestrians to refuge between entering and exiting vehicles.

- h) *The development has not included bicycle parking storage for hotel guest in accordance with the relevant requirements of the Newcastle Development Control Plan 2012.*

Plans have been amended to include a hotel guest bicycle parking storage area.

9 Pedestrian Network

Council has flagged a potential issue relating to the pedestrian crossing at the location of the existing refuge adjacent to the site. While Council have indicated that there are future design strategies for pedestrian links in vicinity, we understand that these conflict with those that have been planned by the RMS.

On the basis that there is a contradiction between what the Council and RMS want in the vicinity for pedestrian networks, it is suggested that this could be dealt with by a condition of consent.

10 Waste Management

Residential waste will be collected weekly by Council.

The collection vehicle will park on Honeysuckle Drive. The building caretaker will be present at all waste collections and will be responsibilie for using the bin moving device to wheel the bins from the bin storage area to the vehicle for servicing and returning them to the bin storage area.

It will be the responsibility of the building caretaker to transfer serviced waste bins back to the designated waste rooms and ensuring that the recycling bins in the bin holding room are presented ready for use by the residents.

11 Contamination

The applicant has engaged a NSW EPA Accredited Site Auditor (Fiona Robinson of Rambol) to review the investigation reports and Remediation Action Plan (RAP), and provide interim advice on the adequacy of the RAP with respect to current regulatory requirements. The interim advice should be available in 2 to 3 weeks.

Rambol have provided the following coments:

A Site Audit Report (SAR 2004) and Site Audit Statement (SAS 2004) has been prepared for the site in 2004 by Mr Graeme Nyland. I have undertaken a review of this SAR/SAS and understand the site contaminants include, polycyclic aromatic hydrocarbons (PAH) and total recoverable hydrocarbons (TRH). Contamination to groundwater was not identified to require remediation. Remediation was previously proposed to comprise capping of the site by the building footprint, paving and clean imported fill.

Since preparation of the SAR 2004, the National Environment Protection (Assessment of Site Contamination) Measure 2013, was introduced and this has amended guideline values for assessing sites. The ESA has undertaken a review of the previous site information, and collected additional information and evaluated all data against the current guidance. The ESA concluded that site contaminants requiring remediation are consistent with historical information, though some additional analytes have been found. The contaminants now requiring remediation are asbestos, heavy metals, polycyclic aromatic hydrocarbons (PAH), total recoverable hydrocarbons (TRH) and acid sulphate soils. In general the remediation strategy of capping the site remains appropriate for these contaminants with the addition of the ASSMP. On the basis of my limited review, I agree with the remediation strategy proposed.

Detailed review of the ESA, RAP and ASSMP will be undertaken and documented in an Interim Audit Advice for the site.

KDC trusts that this response to the submissions suitably addresses the concerns raised by the Council. If you have any questions regarding this letter please do not hesitate to contact Samuel Newman on (02) 4940 0442.

Yours sincerely,



Samuel Newman
Town Planner
KDC Pty Ltd