



City of  
Newcastle



## CITY OF NEWCASTLE

# Development Applications Committee

Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that a Development Applications Committee Meeting will be held on:

**DATE:** Tuesday 16 November 2021

**TIME:** Following the Briefing Committee

**VENUE:** Council Chambers  
Level 1  
City Administration Centre 12  
Stewart Avenue Newcastle West  
NSW 2302

J Bath  
Chief Executive Officer

**City Administration Centre  
12 Stewart Avenue  
NEWCASTLE WEST NSW 2302**

9 November 2021

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**DEVELOPMENT APPLICATIONS COMMITTEE  
16 November 2021**

**CONTENTS**

<b>Item</b>	<b>Business</b>	<b>Page</b>
	<b>APOLOGIES/LEAVE OF ABSENCE</b>	
	<b>DECLARATIONS OF PECUNIARY / NON-PECUNIARY INTEREST</b>	
	<b>CONFIRMATION OF PREVIOUS MINUTES</b>	3
	MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 19 OCTOBER 2021	3
	<b>DEVELOPMENT APPLICATIONS</b>	9
ITEM-22	DAC 16/11/21 - 57A HENRY STREET TIGHES HILL - DA2020/01328 - MULTI DWELLING HOUSING - DEMOLITION OF EXISTING STRUCTURES, ERECTION OF THREE STOREY DWELLINGS AND 1 INTO 3 LOT SUBDIVISION	9

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**NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER**

**CONFIRMATION OF PREVIOUS MINUTES**

**MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 19 OCTOBER 2021**

**RECOMMENDATION**

The draft minutes as circulated be taken as read and confirmed.

**ATTACHMENTS**

**Attachment A:** 211019 Development Applications Committee Minutes

*Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at [www.newcastle.nsw.gov.au](http://www.newcastle.nsw.gov.au)*

**CITY OF NEWCASTLE**

**Minutes of the Development Applications Committee Meeting held via Audio visual platform Zoom on Tuesday 19 October at 8.41pm.**

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**PRESENT**

The Lord Mayor (Councillor N Nelmes), Councillors J Church, D Clausen, C Duncan, J Dunn, B Luke, J Mackenzie, A Robinson, A Rufo, E White and P Winney-Baartz.

**IN ATTENDANCE**

J Bath (Chief Executive Officer), D Clarke (Director Governance), F Leatham (Director People and Culture), J Rigby (Acting Director Infrastructure and Property), A Jones (Director City Wide Services), H Sexton (Acting Manager Legal), M Bisson (Manager Regulatory, Planning and Assessment), S Moore (Manager Finance), P McCarthy (Urban Planning Section Manager), L Duffy (Manager Parks and Recreation), A Knowles (Councillor Services/Minutes), K Sullivan (Councillor Services/Meeting Support), L Stanhope (Councillor Services/Meeting Support) and D Barlass (Information Technology Support).

**ATTENDANCE VIA AUDIO VISUAL MEANS**

**PROCEDURAL MOTION**

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council:

1. Notes the current Public Health Orders applicable to all of NSW;
2. Notes tonight's Development Applications Committee meeting is livestreamed on Council's website providing for access to members of the public;
3. Notes the unprecedented public health risks facing the community and in the interests of public health and safety, permits all Councillors to attend the Development Applications Committee meeting of 19 October 2021 by audio visual means.

**Carried**

**APOLOGIES**

Nil.

**DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS**

Nil.

**CONFIRMATION OF PREVIOUS MINUTES**

**MINUTES - EXTRAORDINARY DEVELOPMENT APPLICATIONS COMMITTEE 21 SEPTEMBER 2021**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

The draft minutes as circulated be taken as read and confirmed.

**Carried**

**DEVELOPMENT APPLICATIONS**

**ITEM-17 DAC 19/10/21 - 164 HUNTER STREET, NEWCASTLE - DA2019/00331.01 - SECTION 4.55(2) MODIFICATION TO DA2019/00331 - MIXED-USE (COMMERCIAL, RETAIL & RESIDENTIAL) INVOLVING ALTERATIONS AND ADDITIONS TO HERITAGE LISTED BUILDING - CHANGES TO APPROVED PLANS INCLUDING AN ADDITIONAL STOREY**

**MOTION**

Moved by Cr Clausen, seconded by Cr Winney-Baartz

- A. That the Development Applications Committee (DAC) note the variation to the height of building development standard of NLEP 2012 and consider the variation to be justified; and
- B. That the Development Applications Committee (DAC) note the variation to the FSR development standard of NLEP 2012 and consider the variation to be justified; and
- C. That DA2019/00331.01 application to modify development consent for mixed-use development involving alterations and additions to heritage listed building at 164 Hunter Street Newcastle, be approved and consent granted subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**.

**For the Motion:**

Lord Mayor, Cr Nelmes, Councillors Church, Clausen, Duncan, Dunn, Luke, Robinson, Rufo, White and Winney-Baartz.

**Against the Motion:**

Councillor Mackenzie.

**Carried**

## CITY OF NEWCASTLE

**ITEM-18 DAC 19/10/21 - 292 WHARF ROAD, NEWCASTLE - MA2021/00090 - SECTION 4.55(1A) MODIFICATION TO DA 2016/00201 - COMMERCIAL PREMISES - CHANGES TO FLOOR PLANS, ELEVATIONS AND CONDITIONS OF CONSENT**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Dunn

- A. That MA2021/00090 at 292 Wharf Road Newcastle be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- B. That those persons who made submissions be advised of CN's determination.

**For the Motion:**

Lord Mayor, Cr Nelmes, Councillors Clausen, Duncan, Dunn, Luke, Mackenzie, Rufo, White and Winney-Bartz.

**Against the Motion:**

Councillors Church and Robinson.

**Carried**

**ITEM-19 DAC 19/10/21 - 2 PRINCETON AVENUE, ADAMSTOWN HEIGHTS - DA2021/00729 - RESIDENTIAL FLAT BUILDING - THREE STOREY RESIDENTIAL FLAT BUILDING COMPRISING SEVEN UNITS AND BASEMENT PARKING, ASSOCIATED EARTHWORKS, LANDSCAPING AND INFRASTRUCTURE**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Clausen

- A. That the Development Applications Committee (DAC) note the objection under Clause 4.6 Exceptions to Development Standards of the Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out;
- B. That the Development Applications Committee (DAC) note the objection under Clause 4.6 Exceptions to Development Standards of the Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.4 Floor space ratio, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.4 and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out;

## CITY OF NEWCASTLE

Development Applications Committee Meeting 16 November 2021

Page 7

- C. That proposal to construct of a three-storey residential flat building comprising seven units and basement parking, associated earthworks, landscaping and infrastructure at 2 Princeton Avenue Adamstown Heights be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- D. That those persons who made submissions be advised of CN's determination.

**For the Motion:** Lord Mayor, Cr Nelmes, Councillors Church, Clausen, Duncan, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

**Against the Motion:** Nil.

**Carried**

### **ITEM-20 DAC 19/10/21 - 4 GARRETT STREET, CARRINGTON - DA2021/00812 - ALTERATIONS AND ADDITIONS TO DWELLING HOUSE**

#### **MOTION**

Moved by Cr Mackenzie, seconded by Cr Luke

- A. That the Development Applications Committee, as the consent authority, notes the objection under Clause 4.6 Exceptions to Development Standards of the Newcastle Local Environmental Plan 2012, against the development standard at Clause 4.4 Floor Space Ratio, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.4 and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and
- B. That DA2021/00812 for dwelling house – alterations and additions at 4 Garrett Street Carrington be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**.

**For the Motion:** Lord Mayor, Cr Nelmes, Councillors Church, Clausen, Duncan, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

**Against the Motion:** Nil.

**Carried**

Note: Councillor Dunn was absent from the meeting when the vote was taken on Items 19 and 20.

## CITY OF NEWCASTLE

Development Applications Committee Meeting 16 November 2021

Page 8

### **ITEM-21 DAC 19/10/21 - 16 PARKWAY AVENUE, BAR BEACH - DA2021/00294 - DWELLING HOUSE - ALTERATIONS AND ADDITIONS**

#### **MOTION**

Moved by Cr Mackenzie, seconded by Cr Duncan

- A. That the Development Applications Committee (DAC) note the objection under Clause 4.6 Exceptions to Development Standards of the Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and
- C. That DA2021/00294 for alterations and additions to a dwelling at 16 Parkway Avenue Bar Beach be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment C**; and
- D. That those persons who made submissions be advised of CN's determination.

#### **For the Motion:**

Lord Mayor, Cr Nelmes, Councillors Church, Clausen, Duncan, Dunn, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

#### **Against the Motion:**

Nil.

**Carried**

**The meeting concluded at 9.07pm.**



**DEVELOPMENT APPLICATIONS**

**ITEM-22**                    **DAC 16/11/21 - 57A HENRY STREET TIGHES HILL - DA2020/01328 - MULTI DWELLING HOUSING - DEMOLITION OF EXISTING STRUCTURES, ERECTION OF THREE STOREY DWELLINGS AND 1 INTO 3 LOT SUBDIVISION**

**APPLICANT:**            **ELK DESIGNS**  
**OWNER:**                **LINEFRNT PTY LTD**  
**REPORT BY:**           **GOVERNANCE**  
**CONTACT:**            **DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER REGULATORY, PLANNING AND ASSESSMENT**

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**PART I**

**PURPOSE**

A Development Application (DA2020/01328) has been received seeking consent for multi-dwelling housing including the demolition of existing structures, erection of three two-storey dwellings and one into three lot Torrens Title subdivision at 57A Henry Street Tighes Hill.

The submitted application was assigned to Senior Development Officer, Holly Hutchens, for assessment.

The application is referred to the Development Applications Committee (DAC) for determination, due to the application being called in by Councillor Clausen and Councillor Duncan.

The application was publicly notified in accordance with the City of Newcastle's' (CN) Community Participation Plan (CPP) for 14 days between 23 November to 7 December 2020 during which time 17 submissions were received.

Amended plans were received on 6 April 2021, the revised application was publicly notified in accordance with CN's CPP for 14 days between 13 April to 27 April 2021 during which time six submissions were received.



**Subject Land: 57a Henry Street Tighes Hill**

The concerns raised by the objectors in respect of the proposed development include character, overshadowing, privacy, setbacks, zone objectives, landscaped area, tree removal, on-street car parking, off street parking and traffic generation.

The proposal was considered at a Public Voice Committee meeting held on 15 June 2021. The issues raised included overshadowing and solar access, high density development in a low-density zone, Newcastle Development Control Plan (NDCP 2012) non-compliance, on-street carparking and the provision for one garage for each dwelling, visual appearance, character and privacy.

In response to the matters raised at Public Voice the applicant submitted amended plans, to address concerns regarding on-street carparking, landscaping, visual appearance and the NDCP 2012 non-compliance. In accordance with CN's CPP the amended plans were not notified. The amended plans are submitted to DAC for determination, refer to **Attachment A**.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Planning Assessment at Section 5.0

### **Issues**

- 1) Matters raised in the submissions including streetscape, character, NDCP 2012 non-compliance, solar access, parking, character, bulk and scale.
- 2) Consistency with the Zone R2 Low Density Residential objectives.

### **Conclusion**

The proposed development has been assessed having regard to the relevant heads of consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and is considered to be acceptable subject to compliance with appropriate conditions.

### **RECOMMENDATION**

#### ***Vote by division***

- A. That DA2020/01328 for multi-dwelling housing, including the demolition of existing structures, erection of three two-storey dwellings, and one into three lot Torrens Title subdivision at 57A Henry Street, Tighes Hill be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- B. That those persons who made submissions be advised of CN's determination.

### Political Donation / Gift Declaration

Section 10.4 of the *Environmental Planning and Assessment Act 1979* requires a person to disclose "*reportable political donations and gifts made by any person with a financial interest*" in the application within the period commencing two years before the application is made and ending when the application is determined.

The following information is to be included on the statement:

- a) all reportable political donations made to any local Councillor of Council; and
- b) all gifts made to any local Councillor or employee of that Council.

The applicant has answered **NO** to the following question on the application form: *Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

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## PART II

### 1.0 THE SUBJECT SITE

The site consists of a single allotment located at 57A Henry Street, Tighes Hill and is legally described as Lot 6 Section D DP 61. The site has a frontage width of 18.2m and depth of 32.9m, is rectangular in shape and has an approximate size of 602m<sup>2</sup>. The topography of the site rises from the front to the rear from 7.4m of Australian Height Datum (AHD) to 10.7m.

The property contains a single storey brick veneer dwelling that was most likely constructed in the 1980s. There are two trees on the site; one located in the front yard and the second growing at the rear of the house.

The site is adjoined to the east and west by single storey workers cottages. Other dwellings in the street are a mix of workers cottages and other dwellings of various styles from different eras. Generally, the vernacular of Tighes Hill consists of older style workers cottages, however, there are examples of contemporary residential development ranging from one to two storeys in height.

### 2.0 THE PROPOSAL

The applicant seeks consent for the demolition of the existing dwelling, erection of a multi dwelling housing development and one into three lot Torrens Title subdivision. The proposal includes the following elements:

- i) Demolition of existing dwelling
- ii) Removal of two trees and site earthworks to prepare slabs and retaining
- iii) Erection of three dwellings (two x attached and one x detached);

- a) Each dwelling is two-storey
- b) Open plan living, alfresco and single garages on ground floors
- c) 3 x bedrooms and 2 x bathrooms on the first floors
- iv) Site landscaping and new driveways in the front setback
- v) Torrens Title subdivision to create 3 x 200m<sup>2</sup> lots

Amended plans were provided on the 6 April and 7 September 2021 in response to concerns from the Public Voice Meeting and Development Assessment Officer regarding providing additional on-streetcar parking and material and cladding changes.

The plans were amended to provide a combined driveway for Unit 2 & 3. Unit 2 is now attached to Unit 3 to accommodate this adjustment. The development is essentially the same as what was originally proposed except for amendments to the front facade such as colours and covered entries in response to CN concerns and matters raised by the submitters.

### **3.0 PUBLIC NOTIFICATION**

The original application was publicly notified for a period of 14 days between 23 November to 7 December 2020 in accordance with CN's Community Participation Plan (CPP). A total of 17 submissions were received in response. The concerns raised by the objectors in respect of the proposed development are summarised as follows:

#### **1) Statutory and Policy Issues**

- a) Zoning objectives – The proposal does not meet the objectives of Zone R2 Low Density Residential.
- b) NDCP 2012 variations.

#### **2) Design and Aesthetic Issues**

- a) Character – not compatible with the residential context of the neighbourhood which consists of detached single-storey and two-storey dwellings and the draft Tighes Hill Local Character Study.
- b) Bulk and scale – visual dominance of the development is unsympathetic with the streetscape.
- c) Streetscape – impact on surrounding streetscapes.

#### **3) Amenity Issues**

- a) Overshadowing of adjoining properties.

- b) Overshadowing on neighbouring properties solar panels.
- c) Lack of privacy.

**4) Traffic and Parking**

- a) Traffic congestion – increased traffic generation.
- b) Increased demand for on-street parking
- c) Lack of parking for three-bedroom dwellings.

The objectors' concerns are addressed under the relevant matters for consideration in the following section of this report.

**Public Voice Committee**

The proposal was considered at a meeting of the Public Voice Committee held on 15 June 2021. Residents raised concerns with regards to overshadowing, solar access, high density development, NDCP 2012 non-compliance, parking, visual appearance, character and privacy.

The applicant provided a response to the issues which is discussed in further detail in section 5.8 of the report. Additionally, the plans were amended to address several of the concerns raised as detailed in **Section 2.0** above. After consideration of the nature and scope of the amendments made, having regard to the CPP, re-notification of the application was not considered necessary.

A copy of the submitted plans / current amended plans is at **Attachment A**.

The various steps in the processing of the application to date are outlined in the Processing Chronology at **Attachment C**.

**4.0 INTEGRATED DEVELOPMENT**

The proposal is not identified as '*integrated development*' pursuant to Section 4.46 of the EP&A Act.

**5.0 PLANNING ASSESSMENT**

The application has been assessed having regard to the relevant matters for consideration under the provisions of section 4.15(1) of the EP&A Act, as detailed hereunder.

## 5.1 Provisions of any environmental planning instrument

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

*State Environment Planning Policy No 55 – Remediation of Land (SEPP 55)* provides that prior to granting consent to the carrying out of any development on land the consent authority is required to give consideration to whether the land is contaminated and, if the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

SEPP 55 provides that prior to granting consent to the carrying out of any development on land the consent authority is required to consider 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.

The subject land is currently being used for residential purposes and CN's records do not identify any past contaminating activities on the site. The proposal is considered to be acceptable having regard to this policy.

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

*State Environment Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)* works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW. The Vegetation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the state through the appropriate preservation of trees and other vegetation.

Two trees are proposed to be removed. No vegetation on the adjoining properties or street trees will be adversely impacted by the development. The proposal has been assessed in accordance with the provisions of the Vegetation SEPP and NDCP 2012 and is considered satisfactory.

### **State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP)**

The *Coastal Management State Environmental Planning Policy (SEPP)* came into effect on 3 April 2018. The SEPP seeks to balance social, economic and environmental interests by promoting a coordinated approach to coastal management, consistent with the objectives of the *Coastal Management Act 2016* (the Act).

The 'coastal zone' is defined in the Act as comprising four coastal management areas; coastal wetlands and littoral rainforest, coastal environment, coastal use and coastal vulnerability. Note: the Newcastle Local Government Area (LGA) has no areas identified in the coastal vulnerability map. The proposed development is not inconsistent with the SEPP.

**State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)**

*State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)* was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency. The ISEPP simplifies the process for providing infrastructure in areas such as education, hospitals, roads, railways, emergency services, water supply and electricity delivery.

Clause 45 - Development impacted by an electricity tower, electricity easement, substation, power line

Clause 45 of the ISEPP requires certain development applications to be referred to the relevant electricity supply authority (Ausgrid) and any concerns raised by the electricity supply authority are to be considered as part of the assessment. This includes development within or adjacent to an easement for electricity purposes; adjacent to a substation; within 5m of an exposed overhead electricity power line; or a pool within 30m of a structure supporting an overhead transmission line.

The proposal was required to be referred to Ausgrid in accordance with the ISEPP. Ausgrid raised concerns regarding the proximity of the development to overhead power lines and minimum blow-out clearance distances. Ausgrid requested additional information including a survey plan and comments from an Approved Service Provider Level 3 (ASP3) regarding the clearance distances and compliance with Ausgrid's Network Standard NS220, the Australian Standard AS/NZ:7000 and Service and Installation Rules of NSW. Ausgrid also requested that species proposed in the landscaping plan for the front setback were reconsidered to include more suitable species that would not interfere with the overhead service lines.

The applicant provided a survey plan and advice from an Approved Service Provider Level 3 (ASP3) as well as amended plant species for Ausgrid's consideration. Based on the additional detail, Ausgrid confirmed that the proposal was unlikely to encroach on the service wires and raised no further concerns regarding the new proposed landscape scheme. Final comment from Ausgrid raised no further concerns and provided general comment for the construction stage which was made available to the Applicant.

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)* applies to buildings that are defined as 'BASIX affected development', being "development that involves the erection (but not the relocation) of a BASIX affected building," (i.e.: contains one or more dwelling).

A BASIX Certificate was lodged with the application, demonstrating that the development can achieve the required water and energy reduction targets. A condition of consent has been recommended, requiring that the development be carried out in accordance with the BASIX Certificate (refer to **Attachment B**).

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

The following summarises an assessment of the proposal against the provisions of the NLEP 2012 that are primarily relevant to the proposed development:

Clause 2.1 - Land Use Zones

The subject property is included within the R2 Low Density Residential zone under the provisions of the NLEP 2012, within which zone the proposed development is permissible with CN's consent.

The proposed development is consistent with the objectives of the R2 Low Density Residential zone, which are:

- i) To provide for the housing needs of the community within a low-density residential environment.*
- ii) To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- iii) To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.*

The proposed development consists of three, two storey dwellings broken up into distinct building forms responding to the prevailing low-density character of the street. The development provides a variety of housing choices.

The proposed development provides for additional housing options to meet a variety of changing needs. The provision of modern two storey dwellings contribute to housing variety within the surrounding area. The bulk and scale of the development is consistent with the existing and desired future character of the locality.

Clause 2.6 - Subdivision—Consent Requirements

The development proposal includes one into three lot Torrens Title subdivision of the existing site. Clause 2.6 provides that the subdivision of land, other than exempt or complying subdivision, requires development consent. The applicant has sought development consent for the proposed subdivision under the subject development application.

Clause 2.7 - Demolition Requires Development Consent

The proposal includes the demolition of the structures on the site. Conditions are recommended to require that demolition works and the disposal of material is managed appropriately and in accordance with relevant standards.



Clause 4.1 - Minimum Subdivision Lot Size

The lots resulting from the proposed one into three lot Torrens Title subdivision do not comply with the minimum lot size prescribed under Clause 4.1 of the NLEP 2012. However, an exception to the minimum lot size applies under Clause 4.1A as discussed below.

Clause 4.1A - Exceptions to Minimum Lot Sizes for Certain Residential Development

The applicant proposes the construction of a multi dwelling housing development consisting of three units and one into three lot Torrens title subdivision. The proposal meets the requirements of the clause as there will be a dwelling built on each proposed lot prior to the subdivision of land.

All proposed lots will achieve an area 200m<sup>2</sup> as required under this clause. A recommended condition has been provided to ensure that the dwellings are constructed prior to the release of a subdivision certificate (refer to **Attachment B**).

Clause 4.3 - Height of Buildings

Under the NLEP 2012 the site has a prescribed height of 8.5m. The submitted maximum height is 8.4m and complies with this requirement.

Clause 4.4 - Floor Space Ratio

Under the NLEP 2012 the site has a FSR development standard of 0.6:1. The submitted FSR is 0.59:1 and complies with this requirement.

Clause 6.1 – Acid Sulfate Soils (ASS)

The site is affected by Class 5 acid sulphate soils and the proposed development is considered satisfactory in this regard. Areas classified as Class 5 are located within 500 metres on adjacent class 1, 2, 3 or 4 land. Works in a class 5 area that are likely to lower the water table below 1 metre of AHD on adjacent class 1, 2, 3 or 4 land will trigger the requirement for assessment and may require management.

Given the nature of the site and scale of the proposed works the development is not likely to result in disturbance of ASS nor the lowering of the water table on adjacent ASS class land, and as such submission of an Acid Sulfate Soils Management Plan is not required for the development works. The development is considered satisfactory in this regard.

Clause 6.2 - Earthworks

The level of earthworks proposed to facilitate the development is considered to be acceptable having regard to this clause. The design suitably minimises the extent of proposed earthworks, having regard to the existing topography and vegetation.

## **5.2 Any draft environmental planning instrument that is or has been placed on public exhibition**

Several draft State Environmental Planning Policies or updates have been exhibited or are under consideration by the Department of Planning, Industry and Environment, however, three are considered relevant to the subject application.

### **Draft State Environmental Planning Policy (SEPP) Remediation of Land**

The Draft Remediation of Land SEPP will replace the existing SEPP 55 Remediation of Land. The proposed development is consistent with the Explanation of Intended Effect for the new SEPP and complies with the existing SEPP 55 Remediation of Land requirements.

### **Proposed Local Character Provision: Explanation of Intended Effect (EIE)**

The proposed Local Character Provision will be a new clause in the Standard Instrument which can be used for guidance and management of change, while supporting local character in certain areas. The EIE states that the objective of the clause will be to identify local character areas and '*to promote the desired future character of local character areas*'. A consent authority would not be able to grant consent to development which this clause applies unless it has taken into account the local character statement. In order to enable the use of this clause a local character statement must be developed for each area. The statement is required to be prepared in accordance with the Local Character and Place Guideline and detail how future growth will be consistent with the identified character.

The Tighes Hill Local Character Study has not yet completed nor adopted by CN. The proposed local character provision of the Standard Instrument has also not been implemented by the State. Therefore, the existing adopted controls must be used to assess the proposal.

### **Proposed State Environmental Planning Policy (Design & Place): Explanation of Intended Effect**

The proposed Design and Place SEPP will bring together a range of considerations that impact the design of places in NSW and will give effect to the objectives of the EP&A Act and the Premier's Priorities for building a better environment. The EIE was exhibited from 26 February to 28 April 2021 which was after the lodgement date for the subject application. The EIE is broad and indicates that the SEPP applies to all scales of development including the subject proposal.

At present, it is not possible to confirm which parts of the SEPP would apply to the proposed development as only the EIE has been exhibited. Local character and context considerations are integral to the Design and Place SEPP, which is proposed to apply a principle-based approach to ensure that design outcomes properly consider local character. Assessment of the proposal has considered character and context through relevant controls contained in the NLEP 2012 and NDCP 2012 which have been adopted and are relevant at the time of assessment. This assessment, as detailed further below, found that on merit the proposal is

consistent with the desired character as envisaged by the controls. The proposal is therefore considered as consistent with the intent of the proposed Design and Place SEPP.

**Review of Clause 4.6 of the Standard Instrument LEP: Explanation of Intended Effect**

The review of Clause 4.6 seeks to ensure that applications to vary development standards have a greater focus on the planning outcomes of the proposed development and are consistent with the strategic context of the site. The EIE was exhibited from the 31 March to 12 May 2021 and outlines those amendments to Clause 4.6 will include new criteria for consideration. The proposed change would require applicants to demonstrate that a variation to a development standard “is consistent with the objectives of the relevant development standard and land use zone and the contravention will result in an improved planning outcome when compared with what would have been achieved if the development standard was not contravened.” For the purposes of CN’s assessment, the public interest, environmental outcomes, social outcomes, or economic outcomes would need to be considered when assessing the improved planning outcome.

The proposed development does not include a Clause 4.6 variation request and is not inconsistent with the proposed changes to Clause 4.6 of the Standard Instrument and the NLEP 2012.

**5.3 Any development control plan**

**Newcastle Development Control Plan 2012 (NDCP 2012)**

The main planning requirements of relevance in the NDCP 2012 are discussed below.

Subdivision - Section 3.01

The proposed one into three lot Torrens Title subdivision complies with Clause 4.1A of the NLEP 2012. The controls relating to subdivision in residential zones are applicable to the application in accordance with Section 3.01 of the NDCP 2012.

The subdivision will result in three rectangular in shaped lots with frontage to Henry Street. The lots will provide for diversity in housing choice as they will provide for an additional two dwellings. The subdivision will not impact natural features, nor is it located within a heritage conservation area or within proximity to a heritage item.

Vehicular access will be provided directly to Henry Street with unit 2 and unit 3 sharing a combined driveway. The application includes a BASIX certificate to confirm that development on the lots can achieve energy efficient building siting and design.

It is noted that a minimum 15m frontage only applies to new residential lots which do not propose a dwelling as a component of the development application. As the application includes the provision of three new dwellings and subdivision this control

does not apply. As discussed below, each dwelling in the proposal achieves the performance criteria of Section 3.03 Residential Development of the NDCP 2012.

Each of the proposed lots can achieve adequate solar access with a dedicated private open space areas orientated south and positioned so that potential internal overshadowing is minimised.

The proposed lots have access to essential services such as water, sewer, and electricity. The proposed subdivision is satisfactory having regard to the requirements of this section.

### Residential Development - Section 3.03

The objective of this section of the NDCP 2012 is to improve the quality of residential development. This can be achieved through a design that has a positive impact on the streetscape through its built form, maximising the amenity and safety on the site and creating a vibrant place for people to live in a compact and sustainable urban form.

The following comments are made concerning the proposed development and the relevant provisions of Section 3.03:

#### Principal controls (3.03.01)

##### *A. Frontage widths*

The site is mapped as being within the limited growth precinct and is zoned R2 Low Density Residential. The existing lot frontage width is 18.29m, the required frontage for multi dwelling row housing in an area zoned R2 Low Density Residential is 18m, the proposal complies with this requirement.

##### *B. Front setbacks*

The multi dwelling housing has a minimum 5.156m – 5.244m front setback on the ground floor to nib walls and a 5.1m – 5.2m setback to the balcony above on the first floor. There is a 5.9m setback to the proposed garage entry.

A covered entry porch is provided at the front door of each dwelling which extends into the articulation zone by 1m. The setbacks achieve the acceptable solutions in the NDCP 2012 and are considered a suitable outcome for the development and site, noting that the proposed dwellings are setback a similar distance from Henry Street as the existing dwelling house.

The entries to the garages are setback in excess of 5.5m from the street to allow the casual parking of other vehicles on the driveways without impeding the public footpath.

The garage entries are also offset approximately 600m behind the balcony above and behind the covered entry porches. Although the garages are not setback 1m behind the front building line, the facade and proposed landscaping provides sufficient articulation and visual interest to minimise the visual appearance of the garage doors as shown below. It is also noted that the colour of the garage doors are integrated into the overall colour and design of each dwelling.

The setbacks are acceptable on merit as they provide for site landscaping, privacy, and amenity of building occupants. The colours and materials of the garage doors have been integrated into the overall design of the development so that they do not appear overbearing and contribute to the overall facade design rather than dominate the streetscape. The proposal has been determined to achieve the acceptable solutions.

*C. Side and rear setbacks*

The proposed side setbacks and associated building envelopes comply with numerical requirements of this control.

The side setback acceptable solutions for residential development in the R2 zone is a minimum of 900mm from both side boundaries up to a height of 4.5m, then at an angle of 4:1 up to the maximum permitted height under NLEP 2012. The rear setback requirements are a minimum of 3m for walls up to 4.5m in height and 6m for walls greater than 4.5m height. The proposed development has the below minimum side and rear setbacks:

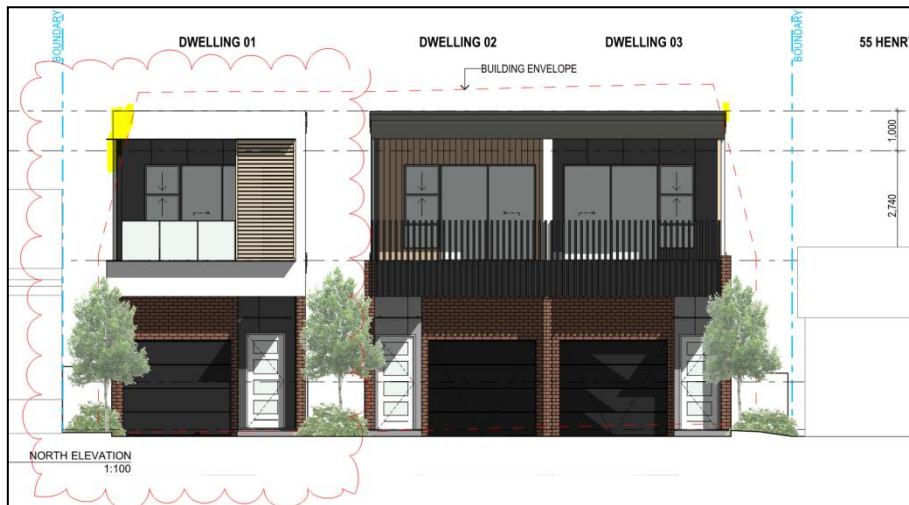
<b>Setbacks</b>	<b>Ground Floor</b>	<b>First Floor</b>
<i>Side (East)</i>	1.100m – 1.530m	1.270m – 1.530m
<i>Side (West)</i>	1.531m - 1.688m	1.688m
<i>Rear (South)</i>	5.086m – 5.139m	9.937m - 10m

The rear setbacks are fully compliant with the acceptable solutions.

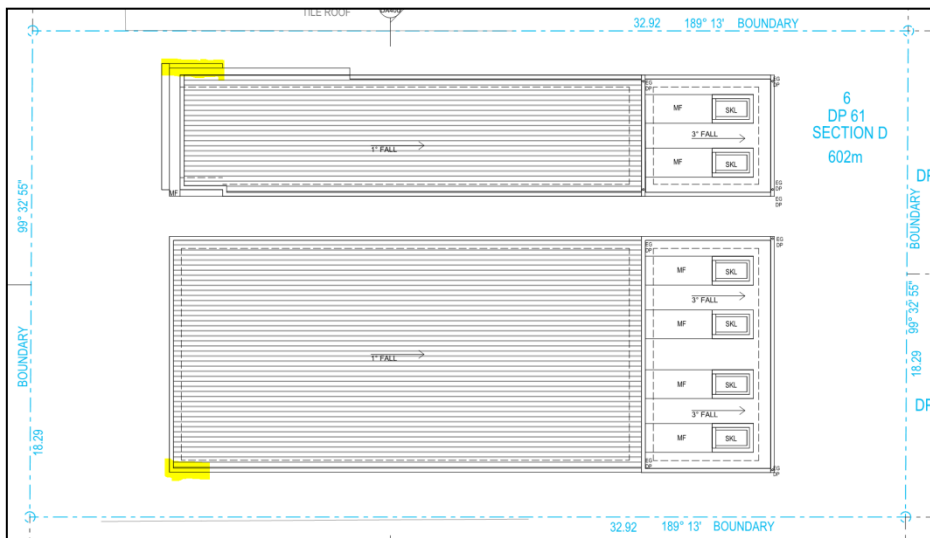
The proposed side setbacks are more than the minimum 900mm permitted up to a wall height of 4.5m and comply with the building envelope until the wall height reaches 6.6m high.

As shown in the below figures, portions of dwellings one and two protrude outside of the building envelope in the front part of the dwellings while the rear of the dwellings are compliant with the acceptable solutions. The rear portion of the dwellings have an increased side setbacks of 1.2m - 1.6m to the east side boundary and 1.5m - 1.6m to the west side boundary and are fully compliant with the building envelope.

The below figures show that only a minor portion of the building exceeds the building envelope.



**Figure 1: Front Elevation – Variations to Building Envelope Highlighted**



**Figure 2: Roof Plan – Variation to Building Envelope Highlighted**

As shown in the above figures, the variations to the building envelope are minor and do not extend the full length of the dwellings. An assessment of the proposed setbacks against the performance criteria is provided below:

- i) Development is consistent with and complements the desired built form prevailing in the street and local area.

The site is located in the R2 Low Density Residential zone. The objective of this zone is to provide for the housing needs of the community within a low-density environment and to accommodate a diversity of housing forms that respect surrounding development and the quality of the environment.

The proposed development has been designed and sited to have front setbacks and presentation to the street which is sought by the NDCP 2012 controls. The location of private open space (POS), windows and openings also maintain the privacy and amenity of adjoining properties. The proposed setbacks will result in dwellings with a density and design that is appropriate for the site and locality as it complies with the NLEP 2012:

- ii) Setbacks maintain the amenity and privacy of public spaces and adjoining dwellings and their private open space. The proposed setbacks will not result in unreasonable overshadowing as discussed further in this assessment.
- iii) Significant views from adjoining properties are maintained. No significant views are lost as a result of the proposed development.
- iv) Sufficient landscape and deep soil areas are provided around the development to conserve existing trees and to accommodate intensive new landscaping. An arborist report has been provided which addresses the proposed removal of two trees from the subject site to facilitate the development. This report found that the trees were of a low retention value and did not require compensation. However, a landscape plan has been submitted which indicates that new plantings can be provided on site to compensate the loss of existing vegetation and provide additional tree canopy and ground cover to integrate the development into the existing streetscape. The proposal also slightly exceeds the amount of landscaped area required to be provided.

The proposed setbacks are therefore acceptable on merit and achieve the desired outcomes for side setbacks. The proposal will not result in overbearing development for adjoining properties, a loss of privacy, or unreasonable overshadowing.

*D. Landscaped Area*

The minimum required landscaped area for land zoned R2 Low Density Residential and identified as being located within the Limited Growth Precinct is 30%. A minimum deep soil zone of 15% is to be provided.

<b>Site 602m<sup>2</sup></b>	<b>Area</b>	<b>Landscaped Area</b>	<b>Deep Soil Zone</b>
	<b>Required:</b>	<b>180m<sup>2</sup></b>	<b>90m<sup>2</sup></b>
	<b>Proposed:</b>	<b>200m<sup>2</sup></b>	<b>89m<sup>2</sup></b>

The proposal has been supported by a landscape plan indicating appropriate deep soil depths for planting medium sized trees and appropriate vegetation. The plans demonstrated that the proposal provides more than the required amount of landscaped area within the front, side, and rear setback, with direct access to these areas from each proposed dwelling.

All landscaped areas have minimum dimension of 1.5m and at least 25% of the front setback is landscaped area. A one percent variation to the deep soil requirements is proposed, given the additional landscaping proposed the minor variation is supported. A 3m wide landscaped area is also provided along the rear boundary and incorporated into the private open space.

The proposed development includes sufficient landscaping to achieve the acceptable solution, support future occupants and to integrate the development with the established streetscape. The development satisfies the acceptable solution criteria of the NDCP 2012 controls in respect to landscaping.

### **Section 3.03.02 - Siting the development**

#### **A. Local character and context**

The applicant has provided a detailed site analysis plan, a character analysis, perspective views of the proposed development and a map of recent development in the Tighes Hill locality similar to that proposed to support the application in accordance with this control.

Regarding character surrounding the site it is noted that the site is not within or within proximity to any heritage items or heritage conservation areas. There are examples of one- and two-storey development in the streetscape of older and contemporary design.

Additionally, there are instances of new builds within in the surrounding locality.

While the proposed development is distinct to the style and form of older workers cottages, the development is consistent with the desired character of the locality as it compliant with the development standards of the NLEP 2012 and performance criteria of the NDCP 2012.

Assessment against the performance criteria is provided below.

1. *The built form, articulation and scale relate to the desired local character of the area and the context.*

Residential development commenced in Tighes Hill between the late 1800s and early 1900s, housing was built to support workers in nearby mining and heavy industry.

The prevailing subdivision pattern for the area was established prior to the gazettal of the standard instrument, the allotments are generally of a smaller nature, with various lot widths, rectangular shape, facing toward the street.

Surrounding development in the vicinity of the site on Henry Street generally consists of low scale residential dwellings which are predominantly single storey and two storey in height, with medium density development and commercial uses on corners sites at Union Street and along Elizabeth Street. The Tighes Hill area contains a diversity in scale, with the larger heritage commercial buildings presenting along



Elizabeth Street and the three storey multi dwelling development located on the intersection of Elizabeth and Union Street. It is acknowledged that the area represents complex layers of different periods of development, both in terms of its street layout, subdivision pattern, and buildings.

With the closure of the BHP steel works the demographics of Tighes Hill has continued to evolve from predominantly working-class families to mostly middle-income professionals and families. The popularity of the suburb, due to its proximity to the city and parklands, has also influenced the construction of new development occurring within the suburb.

The proposed development is considered to have a built form, articulation, and scale that is consistent with the NLEP 2012 and development controls of the area. The three dwellings have been designed to respect neighbouring buildings and character of the area, particularly through materiality, scale, and building form.

The proposal does not seek to mimic the adjoining single storey cottages or older style dwellings, however there is appropriate integration with the local character, through its compliance with the NDCP 2012 and NLEP 2012 and response to the surrounding streetscape. It is also noted that the existing being a early 1980s brick veneer dwelling, does little to contribute to the character within the visual catchment, other than provide a dwelling with smaller bulk and scale.

It is considered that the proposed residential development will contribute positively to the streetscape with appropriate bulk and massing that considers surrounding context and future character of the area.

2. *Development does not unreasonably impact on the amenity and privacy of adjoining dwellings and their private open space.*

The applicant has submitted amended plans which demonstrate that the proposal will not have an unreasonable impact on adjoining dwellings or the public domain. Windows facing adjoining properties are either highset, opaque, or setback significantly from the boundary to prevent and minimise any privacy or overlooking impacts.

The submitted shadow diagrams indicate that the proposal will not unreasonably reduce solar access to adjoining properties and private open space. Overshadowing is further discussed within the report.

The proposed development is therefore considered to be reasonable and compatible with local character and context of the site.

## **B. Public domain Interface**

The proposal achieves the acceptable solutions for public domain interface:

- i) Private open space has been located at the rear.

- ii) Windows and balconies overlooking the street have been provided for passive surveillance.
- iii) Direct visibility between entries and the street is achievable.
- iv) Fences forward of the building line will be required to have a maximum height of 1.2m and openness ratio of at least 50% in accordance with the NDCP 2012 and submitted landscape plans.
- v) No retaining walls in the front setback are proposed.
- vi) Mailboxes are provided to the front of each dwelling.

The development achieves the public domain interface acceptable solutions. Additionally, the proposal will provide for an appropriate transition between the public and private domain and contribute positively to the streetscape and compliment the character of the area.

### **C. Pedestrian and vehicle access**

Pedestrian and vehicle access to each dwelling is provided directly from Henry Street. Each unit therefore appears as a separate dwelling to the streetscape and achieves the relevant acceptable solutions as noted below:

- i) Driveways can comply with AS2890.1.
- ii) Landscape planting is incorporated into the front setback and driveway designs as shown on the submitted landscape plans to minimise the visual impact of hardstand areas.
- iii) The driveways will not have any adverse impacts on nearby trees.
- iv) All driveways are overlooked by windows or balconies from the development.

The proposal provides adequate and safe vehicle and pedestrian access to the dwellings. This access has been integrated into the overall design of the dwellings to ensure there is no significant adverse impact on the streetscape. It is considered that the proposal provides a balanced solution to providing vehicular access and a front contemporary facade that contributes positively to the streetscape.

### **D. Orientation and siting**

#### Solar Access

Detailed shadow diagrams have been submitted with the application to demonstrate that the development will not have an unreasonable impact on the adjoining resident's access to natural light. The shadow diagrams include the shadows cast by the proposal and existing structures surrounding the sites.

Henry Street runs east to west which has resulted in the existing lots being on a north-south axis. Therefore, the proposed two-storey development will overshadow 55 Henry Street in the mornings and 57 Henry Street in the afternoons. It is also noted that 53 Henry Street is an existing two-storey dwelling which overshadows 55 Henry Street in the afternoons. The applicant therefore provided detailed shadow diagrams to show the existing and proposed structures which overshadow the adjoining dwellings.

*Solar Access to 57 Henry Street (east of site):*

An analysis of the submitted diagrams indicates that the proposal will not unreasonably overshadow 57 Henry Street. This dwelling will not be overshadowed by the proposal until 1pm on the winter solstice. Further along to the east at 59 Henry Street, the single storey dwelling is unlikely to extensively overshadow the window to the living area or rear private open space in the mornings. The second window to the internal living room on the southern elevation will continue to receive partial solar access between 11am and 1pm on the winter solstice. It is also noted that this window is located in wall that is built to the site boundary.

*Solar Access to 55 Henry Street (west of site):*

The dwelling at 55 Henry Street is overshadowed by the proposal until 10-10:30am on the winter solstice. The proposed development is not considered to unreasonably reduce solar access to the rear yard (it is noted that shadows cast at the rear of the dwelling are due to the dwelling itself and awnings located on the property and not the proposal).

No. 55 Henry Street is considered to maintain at least three hours of solar access from 10am until 1pm until it is overshadowed by 53 Henry Street next door. The structures on the rear boundary of 55 Henry Street, although not included on the solar diagrams, are unlikely to result in additional overshadowing of the yard as they are located on the southern boundary.

The windows of 55 Henry Street on the eastern elevation are within proximity to the boundary and existing Colourbond fence as shown below. These windows will be partially overshadowed by the development; however, the partial solar access will be maintained between 10am and 12pm.



**Figure 3: Windows on eastern elevation of 55 Henry Street**

An assessment of the development confirms that the proposal will not result in unreasonable overshadowing of neighbouring properties when considering the existing site conditions. The applicant has demonstrated that approximately three hours of solar access to the rear yards will be maintained in accordance with the controls, noting that the south facing private open space is already somewhat overshadowed by existing awnings. The submitted solar diagrams also demonstrate that adjoining solar panels will not have less than 3 hours of solar access.

The impact of the development on overshadowing windows of the adjoining dwellings has been considered reasonable due to existing location, structures and orientation and assessment against the performance criteria provided further below.

*Solar Access to Proposed Dwellings:*

The proposed dwellings achieve suitable solar access for the context of the site. Although living areas are located at the southern end of the ground floor, they are provided with large windows to allow access to natural light. The alfresco area is also provided with skylights and extend to the open level yards which receive solar access.

Cut and Fill

The ground level of the dwellings is not more than 1.3m above or 1m below the existing ground level. Cut and fill within the dwelling footprint does not exceed 1m. Proposed excavation outside of the building footprint is limited where visible from the public domain and adjoining sites.

Cut to a maximum depth of 1.5m is proposed at the rear of the site to achieve level private open space and backyards. The cut and retaining will have minimal visual impact on adjoining properties as it will be below the existing ground level. The earthworks will therefore have minimal visual impact and are limited to the rear of the site to form level yards. Earthworks are further discussed below in regard to Section 5.01 of the NDCP 2012.

Dwelling Orientation

Each dwelling faces Henry Street. A covered entry door and window of the habitable room on the ground floor face the street. The dwellings are appropriately orientated to address the streetscape.

Performance Criteria

Below is the assessment of the development against the performance criteria.

1. *Building types and layouts respond to the streetscape and site while optimising solar access within the development and maximise street surveillance and connectivity.*

The dwellings are orientated towards and address the street. Windows and entries to the dwellings in the front facade provide passive surveillance of the street and positively contribute to the streetscape. The first floor of dwellings is setback 10m from the rear boundary which helps to minimise overshadowing of adjoining dwellings.

2. *Development does not unreasonably impact on the amenity and privacy of adjoining dwellings and their private open space.*

The placement and treatment of windows and location of private open space maintains privacy between properties. Sufficient solar access to backyards and north facing windows of adjoining dwellings is maintained as shown on the submitted shadow diagrams.

3. *Overshadowing of neighbouring properties is minimised during mid-winter.*

As discussed above the development minimises overshadowing of neighbouring properties during mid-winter including their solar panels. More than three hours of solar access is achievable in adjoining yards. Existing windows (that do not face north) will retain partial solar access, however, full solar access of more than three hours is not achievable due to the orientation of the lots and location of windows close to the side boundaries.

4. *The development responds to the natural landform of the site, reducing the visual impact and minimising earthworks.*

No retaining is proposed in the front setback. Level changes are incorporated into the footprint of the dwellings where possible. An arborist's assessment has confirmed that proposed earthworks will not adversely impact the tree identified on the neighbouring property which is to be retained.

The submitted material demonstrates that the proposal achieves the performance criteria and can be supported on merit.

## E. Building Separation

The multi dwelling housing comprises of three units; two attached and one detached. A separation distance of 1.6m is provided between dwelling 2 and dwelling 3. This separation distance is a departure from the acceptable solutions, however, achieves the performance criteria. The separation will provide sufficient solar access and penetration of prevailing breezes between the dwellings. The distance between the dwellings is also considered to be consistent with the pattern of development in the street and provides a sufficient visual break between the buildings to reduce visual bulk as shown below.



**Figure 4:** Side setbacks and building separation shown in yellow highlight

The proposal is therefore acceptable on merit as it achieves the performance criteria.

### Section 3.03.03 Amenity

#### A. Solar and daylight access

Each habitable room is provided with a window of an appropriate size. The submitted shadow diagrams demonstrate that the rear yards achieve adequate solar access. It is also noted that the covered alfresco areas are provided with skylights to maximise solar access to the outdoor dining and internal living areas.

The orientation of the site restricts the amount of direct light that living room windows on the ground floor can achieve. The living rooms have been provided on the ground floor so that the alfresco and landscaped areas provide a natural extension of the internal living areas which is a desirable outcome. It is considered that dwellings 1 and 3 will achieve sufficient solar access to living room windows, however, dwelling 2 will only receive indirect solar access. This is considered acceptable as large windows are provided in the living room and staircase void which will provide indirect natural light throughout the open plan living space. The ground floor living areas are also provided with 3m high ceilings which contribute to improved natural light and ventilation. This will provide a degree of passive heating in winter and will minimise artificial lighting as sought by the performance criteria.

The proposed development is therefore considered acceptable on merit and will provide functional living areas with good amenity.

*B. Natural ventilation*

The location of operable windows, ceiling heights, and depths of rooms will allow for natural ventilation of each dwelling. Each habitable room has an operable window.

*C. Ceiling heights*

A ceiling height of 3m is proposed for ground floor habitable rooms and a 2.7m ceiling height for rooms on the first floor. The proposal complies with the acceptable solutions.

*D. Dwelling size and layout*

The internal layout and spatial arrangement of the dwellings are of a sufficient size to provide functional, well organised rooms with a high standard of amenity. All habitable and service rooms are provided with operable windows to achieve solar access and natural ventilation. Living rooms are of a sufficient size and open plan to allow for the placement of furniture with space for circulation. The layout of each dwelling provides space for a variety of household activities and needs appropriate to the number of occupants. The proposal is consistent with the performance criteria and is acceptable on merit.

*E. Private open space*

Each dwelling is provided with a minimum of 16m<sup>2</sup> of private open space located directly off the ground floor living rooms. The open space provided achieves the minimum area and dimension requirement of the acceptable solutions and does not include storage areas, tanks or air-conditioning units.

*F. Storage*

At least 10m<sup>3</sup> of storage is achieved in the laundries, voids and cupboards of each dwelling to achieve the acceptable solutions.

*G. Car and bicycle parking*

Bicycle parking and storage is achievable in the garage of each dwelling. The aggregate length of the garage doors do not exceed 3.2m of the frontage of each lot proposed and are located 5.5m behind the front site boundary in accordance with the controls.

*H. Visual privacy*

The windows of the development have been sited and designed to maintain visual privacy. Windows on the ground floor will be screened by the proposed 1.8m high Colourbond fence as the finished floor levels are located less than 1m above the existing ground level. Windows to bedrooms and other rooms on the first floor are

provided with a sill height of 1.5m or, in the case of the bathroom and staircase windows, are opaque to prevent overlooking. The proposal is compliant with the acceptable solutions and will not result in an unreasonable loss of privacy.

*I. Acoustic privacy*

The development has been designed to ensure the potential transfer of noise between dwellings is minimised, specifically between dwellings 1 and 2. The location of openings, plant and rooms of similar uses have been suitably positioned.

*J. Noise and pollution*

The site is not located in proximity to any known sources of noise or pollution.

**Section 3.03.04 Configuration**

*A. Universal design*

The proposed dwellings are of a sufficient size to allow for future adaptation for universal design requirements.

*B. Communal area and open space*

Communal open space is not required as less than 10 dwellings are proposed.

*C. Architectural design and roof form*

The roof form, skylights and services are integrated into the overall building design and form and are not visually present in the front facade as viewed from the street.

*D. Visual appearance and articulation*

The front facades of the dwellings are articulated through the use of various materials, colours, varying depths, and voids. A covered entry porch is provided within the articulation zone which clearly defines the entry to each dwelling. The facades are composed of solid and void elements such as the open first floor balconies which are screened and cantilevered forward the ground floor.

All services are integrated into the design of the dwellings and are not visibly present when viewed from the street. Other elements such as screening and garage doors are incorporated into the overall facade design by being coordinated with the orientation or colour of the individual dwelling.

There are no adjoining two storey dwellings to benchmark the key datum lines or setbacks of the proposal against. However, the development is setback a minimum of 5m from the front boundary to the street which is approximately 1.5-3m more than the adjoining dwellings and predominant street frontage setback. This setback will help reduce the visual appearance of the development when viewed from the east and west along Henry Street. This will be further improved once proposed landscaping in the front setback is established.



A mix of colours and materials are used on the front facades. These include:

- 1) Each dwelling having a slightly different but balanced colour palette.
- 2) Coloured brick work on the ground floors.
- 3) Lightweight panelling on the first floor.
- 4) Glass and timber balustrades.
- 5) Vertical timber screening.
- 6) Aluminium shrouds around balcony openings.
- 7) Landscaping incorporated into street frontage.

The visual appearance and articulation of the proposed development therefore achieves the acceptable solutions and performance criteria and is supportable on merit.

*E. Pools and ancillary development*

No ancillary development is proposed.

**Section 3.03.05 Environment**

*A. Energy efficiency*

A valid BASIX certificate has been submitted for the development and space for the drying of clothes has been provided.

*B. Water management and conservation*

Subject to the inclusion of conditions of consent the proposed development achieves compliance with water management and conservation requirements.

*C. Waste management*

Suitable waste storage and collection can be achieved for each dwelling. Bin storage will be located behind fences, so they are not visible from the public domain.

The proposed development is considered acceptable in relation to the abovementioned NDCCP 2012 section and achieves relevant acceptable solutions and performance criteria for building form, building separation and residential amenity. The development establishes a scale and built form appropriate for its location given the planning controls. The proposal provides adequate presentation to the street with good residential amenity, while maintaining privacy for adjoining neighbours.

Section 4.03 - Mine Subsidence

The site is located within a proclaimed Mine Subsidence District and conditional approval for the proposed development has been granted by Subsidence Advisory NSW.

Soil Management - Section 5.01

The submitted site plans stipulates that sediment and erosion management will be undertaken in accordance with the best practice guidelines outlined by Council. A condition is also recommended to be placed on the consent to ensure adequate sediment and erosion control measures are in place for the construction period.

The proposed cut and retaining at the rear of the site to provide level yards is acceptable and only exceeds the acceptable solution of 1m of cut by 500mm. A condition of consent is recommended to be placed on the determination to require a surveyor to confirm the setting out of the retaining structures relevant to the site boundary and proposed new lot boundaries. The retaining structures will also be required to be constructed to the detail of a structural engineer.

The proposed earthworks and retaining structures are acceptable and achieve the performance criteria as they will not result in any adverse impact on the natural environment or visual amenity of adjoining properties or the public domain. The proposal is therefore supported on merit.

Land Contamination - Section 5.02

Land contamination has been considered in this assessment report, in accordance with SEPP 55.

Vegetation Management - Section 5.03

The proposal includes the removal of two trees and retention of one tree on the neighbouring property at 57 Henry Street. An Arborist report has been submitted with the application to confirm that retention of the neighbouring tree is possible. The assessment found that the retention of the tree is achievable if the existing ground level outside of the building footprint is maintained. This has been reflected on the proposal plans and the recommendations of the arborist report will be included in the consent.

The arborist's assessment found that the two trees to be removed have a low retention value and do not require compensatory planting as outlined in the Urban Forest Technical Manual. The proposal includes landscaping and tree planting in excess of the NDCP 2012 requirements, therefore the loss of the two trees will be compensated.

The proposed development is acceptable when considering the requirements under Section 5.03.

Aboriginal Heritage - Section 5.04

Reference to the Aboriginal Heritage Information Management System confirmed that there are no sites of Aboriginal significance recorded on the site.

Archaeological Management - Section 5.06

The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or NLEP 2012 as an '*Archaeological Site*'.

Landscape Open Space and Visual Amenity - Section 7.02

The proposal is a 'Category 2' development, and a landscape plan has been lodged with the application. The submitted Landscape Plan demonstrates that the development provides a sufficient area for soft landscaping including the provision of a mix of medium and large trees. Once established the landscaping proposed will integrate the development into and positively contribute to the streetscape. Each dwelling is provided with an appropriate amount of open space through the use of alfresco and lawn areas. The proposed development achieves the objectives and controls within this section of the NDCP 2012 and is acceptable.

Traffic, Parking and Access - Section 7.03

The internal access arrangements and turning paths of vehicles entering the site are acceptable.

Each dwelling provides at least one garage parking space which satisfies the NDCP 2012 parking requirements. Each garage is setback further than 5.5m which enables a stacked parking space in the driveway which satisfies visitor parking requirements.

The NDCP 2012 requires that visitor parking be provided at a rate of one per five dwellings or part thereof. Taking this provision into consideration, the proposal would therefore require only one visitor space. It is considered that the proposal can sufficiently accommodate visitor parking as each dwelling has the capacity to accommodate an additional parked vehicle via the driveway.

The driveways between dwelling 1 and 2, and then 3 and No 55 Henry Street also provide sufficient separation distance to maintain two on-street parking spaces. The development will result in the loss of one on-street parking space due to the new driveways. It also noted that the new driveways will not result in the loss of street trees.

The local street network can cater for the minor increase in traffic movements associated with the subject development. Accordingly, the development is considered acceptable in relation to on-site parking.

Section 7.06 Stormwater and Water Efficiency - Section 7.07

Stormwater runoff can be managed through the inclusion of a 4,000L rainwater tank per new dwelling. Overflow discharge from the tanks will discharge via new outlets directed to Henry Street kerb and guttering. Stormwater management is separate to each new lot and dwelling and is therefore acceptable with regard to Section 7.06 of the NDCP 2012.

The stormwater management proposed is acceptable subject to recommended conditions of consent (refer **Attachment B**).

Waste Management - Section 7.08

Demolition and waste management during construction can be addressed by way of conditions of consent and have been included in the Draft Schedule of Conditions (refer **Attachment B**).

Adequate and screened bin storage for three residential waste bins is provided for each individual dwelling. Each proposed dwelling also maintains adequate site frontage to utilise Council's public collection service.

Based on the submitted information, the development application is considered acceptable and complies with Section 7.08.

Development Contributions

The EP&A Act enables CN to levy contributions for public amenities and services. The proposed development would attract a development contribution to CN, as detailed in CN's Development Contributions Plans.

A condition requiring this contribution to be paid has been included in the Draft Schedule of Conditions (refer to **Attachment B**).

**5.4 Planning agreements**

No planning agreements are relevant to the proposal.

**5.5 The regulations (and other plans and policies)**

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. In addition, a requirement to comply with AS2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

**5.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

Impacts upon the natural and built environment have been discussed in this report in the context of all relevant policies, including NLEP 2012 and NDCP 2012 considerations. The proposed development will not result in any undue adverse impact on the natural or built environment. The development is located within a site suitably zoned for residential development and of a size able to cater for the proposal. The development is compatible with the existing character, bulk, scale, and massing of the existing built form in the immediate area. The proposal will not have any negative social or economic impacts.

The development has been designed to generally satisfy the requirements of NDCP 2012 and as a result the development is unlikely to adversely impact upon adjoining properties.

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

The site is zoned R2 Low Density Residential, and the multi dwelling housing proposal is permissible. The development consists of three, two storey dwellings broken up into distinct building forms responding to the prevailing low-density character of the street. The proposed development provides for additional housing opportunities that will cater for a range of housing needs.

The provision of modern, well-articulated two storey dwellings are of a bulk and scale consistent with the existing and desired future character of the locality. Furthermore, the site is of a sufficient land size to enable the proposed development, whilst minimising the impact to neighbouring properties.

The site is located in an established residential area with good connectivity to a range of services and facilities. As such, the proposed development is suitable to the site.

**5.8 Any submissions made in accordance with this Act or the regulations**









The application has been notified to the residents/property owners in the vicinity of the site in accordance with CN's Community Participation Plan. The application was first notified between 23 November to 7 December 2020 and subsequently renotified to residents/property owners and previous submitters for a further 14 days between 13 to 27 April 2021 after amended plans were received. A total of 17 submissions were received during the first notification period with a further six submissions received from previous submitters during the second and final notification period.

The concerns raised in public submissions received from the final round of notification completed in April are summarised below with responses provided to each matter.

<b>Summary of Submissions Received 13 to 27 April 2021</b>	
<b>Concerns/Issues</b>	<b>Response</b>
<b>Overshadowing</b>	<p>The submissions raised concern that the proposal will result in unreasonable overshadowing on adjoining properties. In particular, residents either side of the proposal are concerned they will lose solar access to their yard, solar panels and windows due to the submitted proposal and existing two storey dwelling at 53 Henry Street. Concerns also included the variation to the building envelope and its contribution to overshadowing.</p> <p>In order to assess overshadowing impacts amended shadow diagrams were requested from the applicant. The amended documentation was requested to demonstrate compliance with Section 3.03.02 Siting the development, D. Orientation and siting, Acceptable Solution 1. The impact of the proposal on solar panels was also considered.</p> <p>On assessment of the submitted diagrams it has been determined that the proposal will not unreasonably overshadow adjoining living room windows or private open space as discussed in Section 4.3.1 of this report.</p>
<b>Building Envelope</b>	<p>Submissions raised concern that the development did not comply with the building envelope controls of Section 3.03 of the NDCP 2012. As discussed in Section 4.3.1 of this report, the proposed buildings exhibited a minor encroachment into the building envelope for part of the roofs in sections of the development.</p> <p>It has been assessed and determined that the minor encroachment into the building envelope will not directly result in unreasonable impacts on surrounding development and the streetscape.</p>
<b>Parking and Traffic</b>	<p>Concerns raised that the additional three dwellings, each containing three-bedrooms, would result in less available on-street parking. In particular it was noted that some dwellings in Henry Street already do not have access to off-street parking and the street has become busier in recent times with nearby residential and commercial development.</p> <p>The amended plans retain two on-street parking spaces. Additionally, there is sufficient off-street parking incorporated into the development proposal.</p> <p>As discussed in Section 4.3.1 of this report the parking provision provided by the development was determined as</p>

<b>Summary of Submissions Received 13 to 27 April 2021</b>	
<b>Concerns/Issues</b>	<b>Response</b>
	acceptable.
<b>Character, Bulk and Scale, Overdevelopment of Site</b>	<p>The submissions raised concern about the character and streetscape impact of the proposed development on Henry Street and the broader Tighes Hill locality. Generally, the concerns were that new development is not sympathetic or consistent with the style and character of older dwellings in the street. Concerns were raised that the development is of a bulk and scale that represented an overdevelopment of the site.</p> <p>The existing dwelling proposed to be demolished is a single storey brick veneer and tile roof home likely built in the early 1980s. The three new dwellings are two-storey and are of a contemporary design which comply with the 8.5m height limit and 0.6:1 floor space ratio development standard under the NLEP 2012. The facades are provided balconies which cantilever over the garages to reduce their visual impact and have clear and covered pedestrian entrances to each dwelling in accordance with the NDCP 2012. It is also noted that the site is not located within a Heritage Conservation Area nor in proximity to a heritage item.</p> <p>Amended plans that considered alternate facades and/or consideration of a greater mix of materials, finishes, and colours that is in keeping with the streetscape character of the local area were submitted.</p> <p>The site is located within a suburb with an eclectic mix of buildings, with no nearby heritage conservation area. On this basis, it would be unreasonable to enforce a residential development to respond to a single storey-built form. The amended plans and further submissions are discussed in the following table below.</p> <p>The amended proposal complements the surrounding visual character of the street through the appropriate building scale, form, detail, and finish. It is also noted that while dwellings at Henry Street are generally of an older style, consisting single storey buildings, there are examples of two-storey dwellings and of mix of design, colours, and finishes throughout the street as shown below.</p>

**Summary of Submissions Received 13 to 27 April 2021**

Concerns/Issues	Response
	 <p data-bbox="515 667 917 705">57A Henry Street (existing)</p>  <p data-bbox="933 667 1335 705">57 &amp; 59 Henry Street</p>  <p data-bbox="515 981 917 1019">57 Henry Street</p>  <p data-bbox="933 981 1335 1019">40 &amp; 42 Henry Street</p>  <p data-bbox="515 1317 917 1355">47 Henry Street</p>  <p data-bbox="933 1317 1335 1355">34 Henry Street</p>  <p data-bbox="515 1727 917 1765">53 Henry Street</p>  <p data-bbox="933 1727 1335 1765">44 &amp; 46 Henry Street</p>
<p><b>Local Character Study</b></p>	<p>The submissions raised concern that the Tighes Hill local character study had not yet been completed by CN as identified in the Newcastle Local Strategic Planning Statement (Action 10.1) and requested that the application was not determined until this study was completed.</p> <p>As the character study has not been completed nor adopted</p>



<b>Summary of Submissions Received 13 to 27 April 2021</b>	
<b>Concerns/Issues</b>	<b>Response</b>
	<p>the NLEP 2012 and NDCP 2012 must be used to assess the development as they are the current controls. It is not reasonable to refuse the application due to the study not being completed and actions implemented. As the application has been lodged to CN it must be assessed and determined against the existing development controls.</p> <p>The amended proposal has provided greater variance between the facades and an improved articulation zone. The proposal has been determined as supportable noting that the development controls do not require the dwellings to be designed in the same architectural style or to mimic other dwellings in the street. The proposal addresses the street, has clearly defined entries and provides landscaping in the front yards.</p>
<b>Privacy</b>	<p>Some submissions raised concern regarding the location and sizes of windows in the proposed development, specifically where they overlook adjoining properties.</p> <p>It was noted that several of the windows on the first-floor side elevations are highlight windows which achieve the acceptable solutions, others are larger than 2m<sup>2</sup> and have sill heights less than 1.5m above the floor level which do not meet the performance criteria. These windows were requested to be amended to be highlight windows or be provided with screening. The privacy impacts are acceptable due to the design of the windows, which allow for minimal overlooking.</p>
<b>Lot Width</b> <b>Frontage</b>	<p>Concerns raised in the submissions refer to the development not meeting the minimum lot frontage widths.</p> <p>The allotment has frontage width of 18.25m. Lots in the R2 Low Density Residential Zone require a frontage width of 18m for multi dwelling row housing developments under Section 3.03.01 Principal controls, A. Frontage widths of the NDCP 2012. The proposal complies with this control.</p> <p>The 15m lot width control under Section 3.01 Subdivision of the NDCP 2012 is not applicable to the current application. Alternatively, the following control is applicable to the proposed subdivision component of the development:</p> <p><i>'Where an application for subdivision proposes to subdivide land which contains:</i></p>

<b>Summary of Submissions Received 13 to 27 April 2021</b>	
<b>Concerns/Issues</b>	<b>Response</b>
	<p>a) <i>an existing dual occupancy, semi-detached dwellings, attached dwellings, multi dwelling housing or residential flat buildings, OR</i></p> <p>b) <i>the land has consent for, or consent is being sought for, the erection of a dual occupancy, semi-detached dwellings, attached dwellings, multi dwelling housing or a residential flat buildings</i></p> <p><i>it must be demonstrated that each dwelling on each proposed allotment will comply with Section 3.03 Residential Development.'</i></p> <p>The proposal has been assessed against Section 3.03 Residential Development and it has been determined that it complies with the subdivision requirements of Section 3.01.</p>
<b>Landscaping &amp; Vegetation Removal</b>	<p>The submissions raised concern that the proposal did not include sufficient landscaped area. Other submissions raised concern regarding the removal of two trees.</p> <p>The site has an area of 602m<sup>2</sup> and the development is required to provide 30% of site area as landscaped area, of which 15% is to be deep soil zones. The submitted development provided less than the minimum landscaped area and therefore amended plans were requested that achieve the minimum landscaped areas including minimum dimensions. The amended plans and landscaped area have been discussed previously and the proposal is noted as providing surplus landscaping.</p> <p>With regard to the tree removal, the applicant has submitted an arborist report identifying the trees to be removed. The report identifies that the trees have a low retention value and do not require compensatory planting. Notwithstanding, new trees and ground level planting are proposed in the front setback and rear setbacks as detailed on the submitted landscape plan. It is therefore considered that the proposal will compensate the loss of the existing trees and provide a suitable landscape outcome in the front and rear yards.</p> <p>The arborist report has also found that the retention of trees on adjoining properties are able to be retained.</p>

The proposal was considered at the Public Voice Committee meeting on 15 June 2021. Residents raised concerns with overshadowing, solar access, high density development, NDCP 2012 non-compliance, parking, visual appearance and character, landscaping and privacy.

Issue	Applicant Response
<p><b>Overshadowing and Solar Access to the Development.</b></p>	<p><u>Applicant response:</u></p> <p>A compliance table is provided on the top left-hand corner of the plan set which details the square meterage of solar access within the development between the hours of 9am to 3pm during the winter solstice.</p> <p>Unit 1: The plans identify the rear yard of proposed Unit 1 receiving direct solar access between 9am – 2pm, with the area varying between 12m<sup>2</sup> to 25m<sup>2</sup>.</p> <p>Unit 2: The plans identify the rear yard of Unit 2 as achieving solar access between the hours of 11am and 3pm, the area varying between 13m<sup>2</sup> and 15m<sup>2</sup>.</p> <p>Unit 3: The plans identify that the rear yard of Unit 3 as achieving solar access between the hours of 10:30am – 3pm, the area varying between 8m<sup>2</sup> to 27m<sup>2</sup>.</p> <p><u>Comment:</u></p> <p>The achieved solar access exceeds the NDCP 2012 requirements. It is also noted that the proposal incorporates north facing balconies of 8m<sup>2</sup> which receive unimpeded solar access throughout the day during winter solstice.</p>
<p><b>Solar Access impacts on adjoining premises.</b></p>	<p><u>Applicant response:</u></p> <p>The shadow diagrams also give a detailed analysis to the retained levels of solar access to the premises identified as 55 Henry St, in consideration of the impacts by the proposed development and the existing adjoining neighbour further to the west known as 53 Henry St.</p> <p>55 Henry Street is shown to retain 80m<sup>2</sup> or greater of unimpeded access to the yard between 10am to 1pm. Essentially, the yard area is not impacted by either the proposed development or by No. 53 Henry Street between 10:30am to 1pm, the retained duration and extent substantially exceeds the NDCP 2012 requirements.</p> <p>Further, the proposed developments shadow impacts</p>

	<p>completely retract off No. 55 Henry St by 11am. In terms of the impact created by the proposed development, the provision of five hours of unimpeded access to the premises is substantially above any requirement of the NDCP 2012.</p> <p>It is also noted that No. 55 Henry St also retains unimpeded solar access to their southern placed solar panel from 10:30am until 3pm. In terms of the assertion by the objector that that they will be walled in and shadowed, is incorrect.</p> <p><u>Comment:</u></p> <p>The proposal provides adequate solar access to the site and surrounding development meeting the objectives of the NDCP 2012.</p>
<p><b>Building Envelope Exceedance.</b></p>	<p><u>Applicant response:</u></p> <p>The design has been retracted and now sits entirely within the prescriptive building envelope adjoining No. 55 Henry St. The proposal retains a minor exceedance to the building envelope, as shown on the plans, by the exposure of the parapet around the front balcony to the eastern side of the development.</p> <p>The parapet provides a cohesive architectural form to the streetscape and is a minor discrepancy. The removal of the parapet to achieve technical compliance will achieve little and will impact the overall design.</p> <p><u>Comment:</u></p> <p>The parapet provides articulation and softens the overall architectural form. A minor exceedance of the parapet protruding outside the building envelope is not an uncommon occurrence, such features are intended to provide a point of visual interest and does not contribute to the bulk of the building.</p>
<p><b>Bulk, Scale and Massing</b></p>	<p><u>Applicant response:</u></p> <p>The amended design is substantially improved in terms of its visual scale, the architect has introduced materials and colours that are reductive and consistent with the surrounding development context.</p> <p>The development has used face brick on the ground floor, which anchors the building. The lighter cladding elements are included on the upper level to separate the visual mass on</p>

	<p>the first floor. The inclusion of face brick with colouring consistent to the surrounding character enables the proposal to integrate with the surrounding established development. The submitted character analysis, demonstrates that whilst there is a predominance of single storey cottages, there are examples of terrace houses, multi dwellings, education facilities, and commercial buildings existing within the surrounding area.</p> <p>Tighes Hill is a tightly formed suburb, with limited distance existing between integrating points of development scale. In considering this context there is limited distinction between land use zoning and variations in scale are readily evident. If planning provisions are interpreted as seeking to give weight to predominant forms, then communities will become homogenous with limited diversity. It is important to accommodate a diversity of building forms, that caters to a wide demographic. When considering the proposed building scale, it would be difficult to interpret as being excessive within the setting.</p> <p><u>Comment:</u></p> <p>The proposed development is an appropriate bulk and scale and is compliant with prescribed building height and FSR controls under the NLEP 2012. Additionally, the proposal can meet all relevant performance criteria of the NDCP 2012. The proposed development is of a scale in keeping with adjoining built form in terms of setbacks and open space area.</p>
<p><b>Garage Setbacks.</b></p>	<p><u>Applicant Response:</u></p> <p>The design has been revised to reduce the height of the garage doors as a means of reducing their proportion within the front facade and acknowledging the objector's concerns. The doors are also amended in incorporating darker colour as a means of making their presence more recessive within the front elevation.</p> <p>The revised design of the balcony form, which now projects forward of the garage doors has been strengthened by bringing the supporting nibs down to ground level. The connecting nib wall frames the front elevation and strengthens the forward elements.</p> <p>Whilst the objector's concerns are acknowledged, the principles behind garage dominance are formed around preventing obstruction of dwelling entries and visual connection to the public and private interface. In this instance, the dwelling entries are in no way affected by garage openings. The garage doors vertical proportion is irrelevant</p>

	<p>in this regard.</p> <p><u>Comment:</u></p> <p>The proposed development provides appropriate garaging setbacks. The garaging accommodates safe vehicle access, provides appropriate setbacks to accommodate additional parking, and is not considered a dominate feature of the dwellings.</p> <p>The inclusion of a protruding balcony with connecting nib walls, complements the proposal providing a frame like feature. The introduction of differing materials and colours, assists in ensuring the garaging presents as a recessive feature, with the balcony, dwelling entry, and landscaping further softening the garage and driveway elements.</p>
<p><b>Visual Appearance of Driveway, Impact on On-Street Parking and inadequate Off-Street Carparking.</b></p>	<p><u>Applicant Response:</u></p> <p>The extent of on-site parking exceeds that required by Council's NDCP 2012 by two spaces. The creation of additional drive crossing has no net variation to the existing parking capacity as it allows additional on-site parking above NDCP 2012 provisions, equal with that lost by the additional drive crossings.</p> <p>Further, the subject lot is substantial in its width. It exceeds any surrounding lots in its broad frontage and so it is reasonable to seek an increased number of crossings.</p> <p>The proposal provides two driveway crossings for three dwellings, the inclusion of a combined driveway design enables increased separation that retains the on-street space, as well as giving stronger presence to landscape elements.</p> <p>The amended design presents substantially greater landscape area to the front setback than that within the streetscape. The landscape dimensions are broader and allow deep soil planting, which supports proportional responses to the building height by tree inclusions.</p> <p><u>Comment:</u></p> <p>The proposal provides appropriate driveway access, accommodates on-street parking, and provides compliant off-street parking. The provision of combined driveway design allows for increased on street parking and greater opportunities for landscaping within the front setback.</p>

	<p>The proposal has responded to surrounding context by providing appropriate front setbacks that enable additional parking opportunities and landscaping. Additionally, when considering adjoining development in the area, the proposal exceeds parking and setback requirements.</p>
<p><b>Character</b></p>	<p><u>Applicant Response:</u></p> <p>The applicant has provided a detailed character analysis as a separate document. The analysis reviewed subdivision pattern, topography, vegetation, views, open spaces, parklands, built form, and the proposal in context to the surrounding area. It is submitted that the proposal is well considered in terms of the response to the surrounding development context and character.</p> <p><u>Comment:</u></p> <p>The 1980s face brick dwelling offers little in terms of character and or street presentation.</p> <p>The proposed developments scale is consistent with the surrounding area. The locality displays an eclectic mix of housing stock with a mixture of single and two storey dwellings. The suburb contains a diversity in scale, with larger and smaller style buildings.</p> <p>There are a range of architectural styles within the immediate vicinity including intact early 20<sup>th</sup> century weatherboard cottages, two storey masonry terraces, and unsympathetic imitation cottages. West of the site at the intersection of Henry and Union Street is a three storey multi dwelling development which responds well to the surrounding streetscape and context.</p> <p>It is evident that the area consists of a mixture of residential and commercial buildings. The proposal has incorporated keys elements of the surrounding area with the inclusion of face brick, timber, and batten inclusion to the balcony screening. Picket fencing and landscaping within the front setback is evident throughout the immediate streetscape and has been included in this proposal.</p> <p>Whilst the development does not reflect the identical scale of the adjoining premises, the proposal has incorporated key elements of the surrounding built form. It is noted that the proposal is permissible and will contribute to providing additional housing opportunities in a suburb that is close to public transport, employment, and social activities.</p>

<p><b>Private Space</b>      <b>Open</b></p>	<p><u>Applicant response:</u></p> <p>The amended design proposes a reduction in the depth of the alfresco areas to 3.6m, enabling increased open space area depth, this is in response to the minor technical non-compliance described by the objector. The yard spaces are now 5.068m in depth (4.868m excluding retaining wall depth). This substantially exceeds the minimum provision of the NDCP 2012 which is 3m. When considering both the combined alfresco and yard space is 8.774m. This is a substantial open space inclusion above that required by Council's provisions.</p> <p><u>Comment:</u></p> <p>The proposal provides a compliant open space area that will provide amenity to the occupants.</p>
<p><b>Privacy</b></p>	<p><u>Applicant Response:</u></p> <p>The proposal only incorporates highlight window forms to side elevations. As such, the windowsill height is a minimum 1.5m above floor level and so the capacity for downward looking is constrained. When determining privacy impacts from development, consideration is given to the visual connection between primary habitable spaces and open space elements. In this instance, those areas are set into the hillside with a 1.8m high boundary fence to the neighbouring premises. Therefore, the visual connection to and from those area from adjoining premises will be completely obstructed.</p> <p><u>Comment:</u></p> <p>The proposal ensures adequate privacy is preserved, whilst allowing for adequate solar access and connected private open space areas.</p>
<p><b>Landscape Area and Deep Soil Zones</b></p>	<p><u>Applicant Response:</u></p> <p>The alfresco elements have been retracted in depth to afford an increased yard space. This, combined with the placement of the rainwater tanks underground enables a substantial increase in the landscaped area. The clothes lines are proposed as fold down lines. The proposal now has 33.2% of the lot area as landscaped area.</p> <p>An amended landscaping plan has been submitted which includes additional deep soil planting, which includes trees within the rear yard spaces. We highlight this aspect, as the</p>



	<p>amenity within the yard spaces should be considered holistically. A courtyard space sufficient in size to support trees to the scale of 9m is exceptional within a multi dwelling house proposal. Whilst the technicalities around solar access compliance have been raised, the amenity afforded by the spaces broad area and the quality of the landscape inclusions enhances the liability within the spaces.</p> <p><u>Comment:</u></p> <p>The proposal provides adequate landscape opportunities, including deep soil zones.</p>
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The proposed development does not pose any unreasonable impact to the streetscape or adjoining properties. As such, the adjoining properties retain a reasonable level of amenity, privacy, and solar access. The proposed development is provided with a surplus of off-street carparking spaces and is not considered to generate any significant traffic impacts.

All submissions received have been considered, and as such concerns raised in the submissions do not warrant the refusal of the application in its current form or necessitate any further amendments.

The proposed development has been found to be consistent with outcomes of all relevant controls of NLEP 2012 and NDCP 2012 as discussed elsewhere within this report.

**5.9 The public interest**

The proposed development is consistent with the aims and design parameters contained in the NLEP 2012 and NDCP 2012 and other relevant Environmental Planning Instruments discussed within this report. The development is consistent with the objectives of Zone R2 Low Density Residential.

The proposed development will not have any adverse impact on the natural or built environments and will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The proposed development is in the public interest as it provides for a variety of housing options within an established residential area. In addition, the proposal is consistent with CN’s urban consolidation objectives, making more efficient use of the established public infrastructure and services.

The proposed development is satisfactory having regard to the principles of ecologically sustainable development. Furthermore, the proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

**6.0 CONCLUSION**

The proposal is acceptable against the relevant heads of consideration under section 4.15(1) of the EP&A Act and is supported on the basis that the recommended conditions in **Attachment B** are included in any consent issued.

**ATTACHMENTS**

**Item 22 Attachment A:** Submitted Plans – 57A Henry Street, Tighes Hill

**Item 22 Attachment B:** Draft Schedule of Conditions– 57A Henry Street, Tighes Hill

**Item 22 Attachment C:** Processing Chronology – 57A Henry Street, Tighes Hill

**Item 22 Attachments A - C distributed under separate cover**