

ATTN: Planning and Regulatory
City of Newcastle

Wednesday 13 February 2019

Dear Mr Toose

RE: Open Newcastle Submission on DA 2019/00061

Thank you for the opportunity to make a submission in relation to DA 2019/0006. This submission is from Open Newcastle Inc, a local residents group. We wish to register our strong objection to the development proposed for 11-17 Mosbri Crescent the Hill.

We provide reasons for our objections with reference to the objectives of the *Newcastle Local Environment Plan (NLEP)* and R3 medium density zonings, and with reference to Section 4.15 of the *Environmental Planning and Assessment Act*.

By way of general comment, we note that the *Local Planning Strategy (LPS)* identified a need for an additional 39 dwellings in The Hill by 2031. The proposed development represents more than four times the number of dwellings that it is estimated the suburb will require, and it places them on a single site. The development does not respond appropriately to the LPS and does not respond to the needs or desires of the community.

The LPS sets out a vision for the Hill, that “The amenity and heritage character of The Hill will be conserved while supporting new opportunities for expanding the population in select areas”.

It also sets out objectives, which are to “facilitate medium density housing in appropriate locations that respects the existing heritage character of the area.

- Protect the character of the city skyline along ridge tops.
- Protect and enhance public open space.

The development does not respond to the vision or objectives for The Hill and the DA should not be approved in its current form. The applicant should be required to withdraw the proposal and resubmit a more appropriate scheme that aligns with the LPS, the objectives of the zone as outlined in the LEP, and a scheme that meets the criteria of the various planning instruments referenced above.

On review of the documentation, there would seem to be no basis to support the request for a variation of Clause 4.6 of the Newcastle LEP (NLEP). In fact the more appropriate outcome would be for the development to resubmitted with buildings no more than six storeys (including the ground floor), which the site could more reasonably accommodate.

Given the inappropriate scale and density of the proposed development, the applicant, this DA should be refused and a more appropriate scheme for the site should be developed.

LEP and Objectives of zone – R3 medium density residential

Key amongst the objectives of the R3 medium density residential zoning is:

To allow diversity of activities and densities, if:

- i. the scale and height of proposed buildings is compatible with the character of the locality; and*

Council records indicate that throughout the rezoning process associated with this site, Council's position from July 2015 and through most of the negotiations with the previous owner of the site, was that "a scale of up to 6 storeys could probably be accommodated based upon topography" (ID4886128). Notes from meetings of senior Council officers, the LEP Advisory Panel, and the Urban Design Consultative Group (UDCG) confirm this position. There has been no change to the neighbourhood since these comments were made, and they remain relevant. The heights and densities in the DA cannot be achieved while satisfying the objectives and visions of the LPS.

The current built environment around the site features a mix of townhouses, low rise apartments, cottages and houses. Kitchener Parade features buildings with around one and a half to two stories above the street edge. Mosbri Crescent has mostly two story apartments with car parking underneath. The DA does not address the predominantly low-rise context of the Hill.

The DA also fails to address the sensitivities of the surrounding Heritage Conservation Area. These areas and items to north and east of the site will not be redeveloped at this intensity. It is important that views and outlooks from Wolfe Street and the Obelisk are protected.

- Kitchener Parade – A maximum three-storey building should be presented to this street to ensure the appropriate human scale. Street pavement level is approximately RL38 at western end and allowing for three-storey (approximately 9m) results in maximum RL47.
- **Proposed building A (West)** has height to the lift motor room of RL51. The height limit in the DCP is RL47.5, including the lift motor room. This is **RL3.5 higher** than the (inadequate) controls in the DCP.
- **Proposed building A (East)** is well in excess of three storeys with height to the lift motor room at RL59.25. This is **RL2.45 higher** than the (already inadequate) controls in the DCP of RL56.8 (which includes the lift motor room).
- In seeking to monopolise the entire site and exclude community, the scheme misses the opportunity to exploit the slope towards Mosbri at the Western edge. Presumably this is the reason that there are attempts to gain extra height on Building A facing Kitchener Parade. This should not be supported.
- Wolfe Street is approximately RL55. An overall building RL49 would sit below this level obscuring view from Wolfe Street, consistent with neighbourhood objectives to protect ridgeline.
- Building B is shown in the DA with height RL55.45 to the lift motor room when it should be maximum RL52.3. This is **RL3.15 higher** than the DCP allows.

HOBs are needed to ensure a human scale streetscape, which is nominally three to four-storey above the respective street level. This will deliver a better relationship to adjoining development, and respect for the adjoining heritage conservation areas and items.

The applicant, through the variation request, has effectively added an extra floor onto Building A and Building B on top of an already problematic spot rezoning. Given the extraordinary outcome of the rezoning in favour Channel Nine in 2016-2017, it would be completely inappropriate to relax the controls in relation to height and FSR.

Consent should not be granted for variations to exceed the LEP height limits for the roof of buildings, as this should only occur “where roof features contribute to the building design and overall skyline”. This is not the case with the current DA.

The scheme is wholly incompatible with the neighbourhood and monopolises the site. The generous access from Mosbri Crescent to Kitchener Parade that featured in the DCP’s “preferred site layout plan and building typology” has become a narrow strip on the western edge of the site, presumably so the entire development can be walled off.

ii. there will be no significant adverse impact on the amenity of any existing nearby development.

The heights and densities in the DA do not respect neighbourhood amenity and will have a seriously adverse impact on the locality.

There appears to no regard for the amenity of surrounding properties, which are not referenced in the shadow analysis or in any of the elevations. The applicant should be required to withdraw the DA and resubmit reports that clearly indicate the impact of the proposed development on Mosbri Crescent and the pocket park through shadow analysis, view montages, and massing studies and elevations. This additional information should also be provided with reference to Kitchener Parade, Newcastle East Public School, and the heritage conservation zone.

Building B effectively colonises Arcadia Park through its proximity to the boundary and will create a sense of the park as “privatised”.

The impact of noise and light should also be considered noting the “bowl like” topography and the site’s resemblance to a natural amphitheatre. This means that noise from the site is broadcast across the suburb, as is the case with events at Newcastle East Pubic School. In the rush to exploit the site’s topography, other factors that should constrain development at this height and intensity have been seriously overlooked.

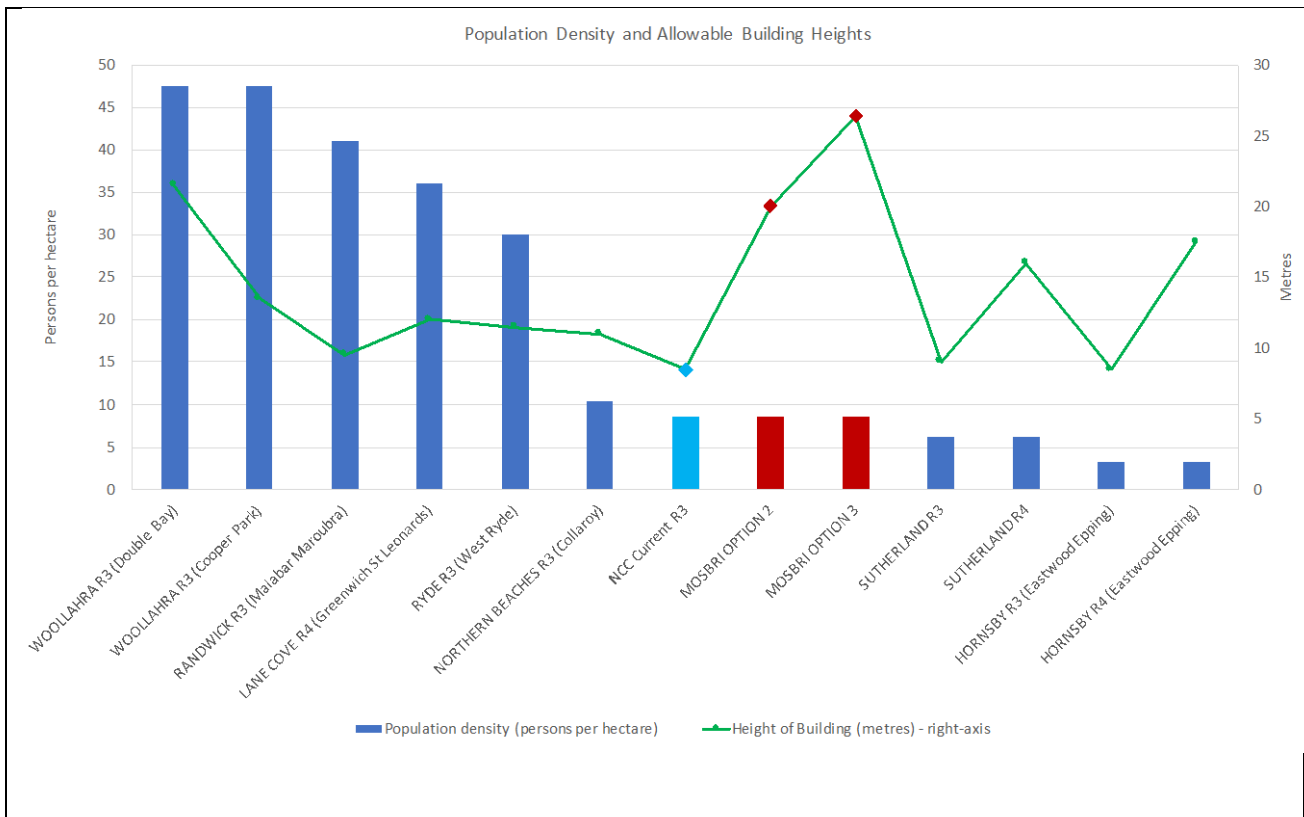
To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development:

i. Has regard to the desired future character of residential streets and

The population increase represented in the DA is unprecedented and unplanned for. The Planning Proposal (which the applicant refers to in the DA documentation) associated with the recent rezoning of the site notes that areas adjoining the site are generally considered appropriately zoned R2 Low Density and are unlikely to be redeveloped to significant scale variation. The DA, if approved will produce a site that is completely incongruous and will remain so into the future.

ii. Does not significantly detract from the amenity of any existing nearby development

The increase in population levels on this site reflect the poor outcome of the planning proposal. The population increase is facilitated by inappropriate HOBs and FSRs and will likely have unintended impacts on the amenity of nearby development. The graph below illustrates the source of risk. The bars indicate population density in a number of Local Government Areas (LGAs). The line indicates allowable HOBs in the relative LGA. Mosbri Option 1 represents the standard controls for an R3 medium density zoning. Mosbri Option 2 and Option 3 reflect HOBs of 20m and 26m respectively. These reflect heights considered in the planning proposal phase, which the DA exceeds. The graph below demonstrates that the HOBs on 11-17 Mosbri Crescent exceed those in LGAs with five times the population density. The locality is not at prepared for development of this intensity and the related population growth.



LEP 7.5 Design Excellence

- b. *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*

The form (a gated community) and development (bulk and mass) will detract from the public domain and the relationship between the built environment and the coastal zone. The “clearly defined boundaries and elements of “territorial reinforcement” will detract from the amenity of the public domain outside the development.

- c. *whether the development detrimentally impacts on view corridors identified in the Newcastle City Development Control Plan 2012,*

In order to preserve view corridors, built form should sit comfortably below the ridges. This is not the case with Building A East, which sits **RL4.25 above Wolfe Street** and Building B, which also sits above the ridge line.

- d. *how the development addresses the following matter:*

- i. *heritage issues*

The development does not address the adjacent Heritage Conservation Zone in terms of height or density. The development should not be at all visible from the Obelisk and Wolfe Street. Wolfe Street is RL55, Building A East, and Building B both exceed this, when they should sit well below the ridgeline.

- ii. *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

There are no towers currently on the site or on neighbouring sites. Given the proximity of the site to a Heritage Conservation Zone and multiple heritage sites, neighbouring blocks will not be developed at the same scale and the tower will remain a poor fit for the locality.

iii. bulk, massing and modulation of buildings

In the context of the existing built form, the development is vast and oppressive in relationship to its context.

iv. street frontage heights

Buildings facing Kitchener Parade should generally not appear higher above the road level than 2 storeys, with a possible additional level well set back from Kitchener parade in order to achieve a human scale. The development does not achieve this.

v. environmental impacts such as sustainable design, overshadowing, wind and reflectivity

The applicant provides shadow analysis of the site only. Shadow analysis on surrounding streets has not been provided and should be provided before further progress. This has not been provided by the applicant.

vi. the achievement of principles of ecologically sustainable development

The development does not prioritise affordability, transparency, sustainability, deliberative design, or make a contribution to the community through the creation of connected experiences. It cannot be seen to achieve the principles of ecologically sustainable development. An exemplar in this regard is the Nightingale model. In contrast, this development aims to deliver maximum financial yields and does not focus on the people who will live there, and their impact on the environment and local community.

vii. pedestrian cycle, vehicular and service access, circulation and requirements

The Crime and Safety Report makes the claim that the buildings connect with the public domain in terms of being accessible via cycling, walking, rail, bus and vehicle. The site is separated from the city by a steep ridge which makes walking or cycling somewhat challenging. Pedestrian access to Darby Street is less challenging but also involves descending approximately 21 meters over the walk. Services are not as accessible as implied. Indeed, Intersect's traffic analysis reports that access to bus stops on Darby Street "are more than the usual acceptable convenient walking distance from the development site", and the closer bus stop on Wolfe Street is at the top of a steep hill. These factors compromise the site's accessibility and should point to a less intensive development.

It's not clear from the documentation that there is appropriate service access for waste management or emergency vehicles. Indeed, the documentation suggests that the carriageway would be better serviced in the location if parking was prohibited along one side of Mosbri Crescent. This too suggests that the development is taking too much from the locality.

viii. the impact on, and any proposed improvements to the public domain".

The development imposes significant costs on the public domain both social and economic. These are discussed in more detail below.

4.15 Evaluation – Environment Planning Assessment Act

The Development Control Plan

1. Responsible and sustainable redevelopment of the site

The site requires extensive mitigation and excavation to deal with mine subsidence and stormwater runoff. A more modest development of the site would be responsible and sustainable and would reduce the scale of the above mine subsidence and stormwater issues. The community will bear significant costs arising from a development of the proposed scale and intensity. As noted above, the Nightingale model

which prioritises economic, environmental and socially sustainable development would be a useful reference for future schemes.

- 2. To ensure new development incorporates best practice principles and achieves a quality urban renewal outcome*

The development does not engage with the urban environment and cannot be seen as achieving a quality urban renewal outcome. A more appropriate response that did incorporate best practice to achieve a quality urban outcome is represented by the work of the Nightingale Group, which produce environmentally, socially and economically sustainable design. It's also noted that a Nightingale scheme caps profits at 15%.

- 3. To ensure building orientation and footprints are designed to maximise solar access and allow for natural ventilation.*

Solar access for Building B is somewhat limited due to the adjacent park and mature trees. If the building was set back from the perimeter this could be addressed more successfully.

- 4. To allow for a sensitive transition of building height which responds to the surrounding built form, heritage and topography, including protection of ridgelines.*

It would be expected that the built form would transition down the slope but the development does not achieve this. Buildings A and B line the North and Eastern edges and present as a fairly solid mass, parts of which protrude beyond ridgelines. Heights need to be reduced to address the outlook from the Obelisk.

- 5. To provide a variety of housing typologies to provide interest to the site and to respond to topography*
- 6. To strengthen and reinforce the streetscapes of Mosbri Crescent and Kitchener Parade through human scaled streetscapes and well-defined landscape.*

A more comfortable human scale would require a significant reduction in height for Buildings A and B. The issue of height and scale is addressed throughout this submission.

- 7. To increase the opportunity for pedestrian connections to local amenity beyond the site boundary including Arcadia Park, Mosbri Crescent Park and connections to services and transport.*

The development application shifts pedestrian access from a more central location of the site (in the DCP) to the western edge, presumably to ensure that the development can be gated.

- 8. To protect important views through building design and location*

As noted throughout, buildings A and B are both taller than Wolfe Street, which is the highest street in the area, and within the Heritage Conservation Zone.

- 9. To provide amenity and social inclusion through the provision of shared communal open space*

This is development of enormous proportions that makes no concessions to community in terms of shared open space. In its present form the development looks to be a vehicle of social exclusion.

- 10. To incorporate the existing landscape to act as a buffer between the site and neighbouring sites.*

No comment

- 11. To provide high amenity private open space in the form of balconies for apartments and rear gardens, courtyard spaces and upper level balconies for terrace houses.*

No comment.

Planning Agreement (or draft agreement) entered into under section 7.4,

The Statement of Environmental Effects notes that the applicant intends to engage in voluntary planning agreement discussions with Council regarding the proposed drainage works and directs readers to a document prepared by Northrop, provided at Appendix D.

See also environmental effects noted below. It is important to note that the scale and intensity of this development is the reason extensive grouting, and drainage works are needed. This should not be construed as a contribution by the developer, as in reality, it is a public subsidy due to the profit the developer will extract from the increased dimensions of proposed buildings.

Environmental Impacts

The building is a poor fit to the environment and does not respond to context. In seeking to maximise the development yield, the developer is imposing massive costs on the environment and on residents. This is evident in requirements re grouting and also drainage.

The “Mines Subsidence Assessment Report” notes that evidence was found of the AA Company’s yard seam and that grouting will be required to ameliorate the risk of subsidence (see further commentary below in economic impact). A more modest development would not require this significant investment.

The DA proposes significant and unacceptable excavations to Arcadia Park, with a pipe network required at a depth of between 5-6m for stormwater management. The DA’s proposed solution is to raise the northern pit and pipe by filling the northern gully to bring the starting invert level up 2m. Some infill could be considered if it was small and supported an open stream form. Two meters of fill should not be accepted.

The site is in the Coastal Zone as defined by the Coastal Management Act 2016. Suggested works associated with stormwater management approaches do not protect or enhance Arcadia Park. The type, bulk, scale and size of this development is not appropriate for the location.

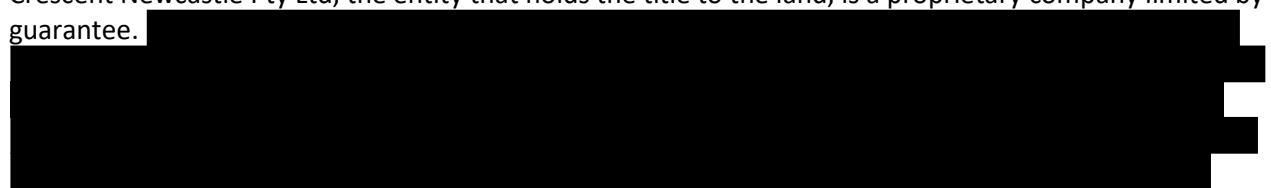
Social Impacts

The site is surrounded on three sides by quite steep topography. Council records regarding this site note that this limits easy pedestrian access in all directions other than to the west to Mosbri Crescent. It is therefore not as accessible for people with impaired mobility. Although the distances are not great, the paths and roads are very steep. As the UDCG noted, this is “an unavoidable natural attribute of the site”, and “it is one of the factors *against* opting for the densest zoning of the area” (ID4811618). The reasons Council proceeded with the rezoning at this level are unclear. The problems flagged in February 2016 by the UDCG regarding accessibility remain and are not addressed by the development.

This area of The Hill is a diverse and functioning neighbourhood including a local Landcare group that cares for Arcadia Park. Of critical importance is the existence of a refuge in Hillview Crescent for men recovering from substance abuse. There are so few facilities for this vulnerable group of people, and services are being pushed out of the city. This facility makes a valuable contribution to the city and society and needs to be protected.

Economic Impacts

The development offers little in the way of economic benefits to the city. It is important to note that Crescent Newcastle Pty Ltd, the entity that holds the title to the land, is a proprietary company limited by guarantee.



The proposed development clearly serves the private interests of the shareholders of Crescent Newcastle Pty Ltd, not the public interest. Any economic benefit arising from construction will be short lived and therefore not sustainable. There will also be very real costs borne by the taxpayer through subsidies for grouting that are paid by the NSW Government through Hunter Development Corporation.

(c) the suitability of the site for the development

The *Local Planning Strategy* identifies the site as suitable for redevelopment opportunities (p. 60).

The LPS also forecasts that an extra 39 dwellings will be required for the entire suburb by March 2013. There is simply no evidence to suggest that an increase in density of the level proposed is suitable for the site in the broader context.

The Planning Proposal associated with the rezoning notes that HOB and FSRs slightly higher than the standard controls of HOB 10-11m and FSR 0.9:1 are considered possible due to the “bowl like” topography. However records of meeting of the UDCG (17 February 2016, 15 June 2016) clearly indicate that the heights and density that were eventually approved were not appropriate. The UDCG (ID4811618) commented that “an adaption of Option 2 (or a variant of it) would be likely to produce an optimal use of the site(s) while maintaining amenity and character”.

The heights and densities in the DA simply do not engage with the surrounding streets. The excessively generous controls associated with the rezoning of the site have been incorporated in a completely inappropriate proposed development for the site.

(e) the public interest

Council records (ID4918889) indicate that when lobbying for additional height and density for 11-17 Mosbri Crescent, Mr Gordon Kirkby of Ethos Urban (representing the applicant) advised Council that “Nine Network Australia has a desire to realise a good return from the redevelopment potential of the site.” The rezoning yielded a massive profit to the Nine Network. It’s clear that the benefits of this project will go to private interests, and mostly offshore.

It is in the public interest that the processes associated with this particular development application remains open and transparent.

Open Newcastle Inc

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