



14 March 2019

To All Councillors

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993, that the next Ordinary Meeting of Council will be held in the Council Chambers, on Wednesday, 20 March 2019 at 6.30 pm, for the purposes of transacting the undermentioned business.

AGENDA:

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Principles for Local Government

Exercise of functions generally

The following general principles apply to the exercise of functions by Councils:

- a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- e) Councils should work co-operatively with other Councils and the State government to achieve desired outcomes for the local community.
- f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- g) Councils should work with others to secure appropriate services for local community needs.
- h) Councils should act fairly, ethically and without bias in the interests of the local community.
- i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

Council's Values

- Integrity
- Accountability
- Respect
- Excellence
- Teamwork

Our Community's Vision

Cessnock will be a cohesive and welcoming community living in an attractive and sustainable rural environment with a diversity of business and employment opportunities supported by accessible infrastructure and services which effectively meet community need.

Cessnock – thriving, attractive and welcoming.

Our Community's Desired Outcomes

- A connected, safe and creative community.
- A sustainable and prosperous economy.
- A sustainable and healthy environment.
- Accessible infrastructure, facilities and services.
- Civic Leadership and effective governance.



Council Model Code of Conduct

Council adopted its current Code of Conduct on 3 February 2016. This Code provides details of statutory requirements and gives guidance in respect of the way in which pecuniary and conflict of interest issues should be approached.

Generally, the policies refer to the following issues:

1. Councillors are under an obligation at law to disclose any interest they may have in any matter before the Council and to refrain from being involved in any consideration or to vote on any such matter
2. Councillors must disclose any interest in any matter noted in the business paper prior to or at the opening of the meeting
3. The nature of the interest shall be included in the notification
4. Councillors shall immediately and during the meeting disclose any interest in respect of any matter arising during the meeting which is not referred to in the business paper
5. All declarations of interest shall be recorded by the General Manager
6. All disclosures of interest shall as far as is practicable be given in writing
7. Any member having a pecuniary or non-pecuniary significant conflict of interest shall leave the meeting and remain absent while the subject of the interest is being considered by Council
8. The meeting shall not discuss any matter in which a Councillor has a pecuniary or non-pecuniary significant conflict of interest while the Councillor is present at the meeting

**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 6 MARCH 2019, COMMENCING AT
6.30 PM**

PRESENT: His Worship the Mayor, Councillor R Pynsent (in the Chair) and Councillors Olsen, Doherty, Dunn, Fagg, Stapleford, Suvaal, Fitzgibbon, Gray, Burke, Sander and Lyons.

IN ATTENDANCE: General Manager
Director Planning and Environment
Director Corporate and Community Services
Director Works and Infrastructure
Development Services Manager
Strategic Planning Manager
Finance & Administration Manager
Infrastructure Manager
Project Manager - Strategic Property Review
Acting Economic Development Manager
Media & Communication Officer
Corporate Governance Officer

APOLOGY:

MOTION **Moved:** Councillor Burke **Seconded:**
Councillor Lyons

775

RESOLVED that the apology tendered on behalf of Councillor Dagg, for unavoidable absence, be accepted and leave of absence granted.

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (12)

Total (0)

CARRIED UNANIMOUSLY

MINUTES:**MOTION****Moved:** Councillor Sander
Councillor Burke**Seconded:**

776

RESOLVED that the Minutes of the Ordinary Meeting of Council held on 20 February 2019, as circulated, be taken as read and confirmed as a correct record.

FOR**AGAINST**

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent

Total (12)**Total (0)****CARRIED UNANIMOUSLY**

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. DI3/2019

SUBJECT: DISCLOSURES OF INTEREST

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

WI11/2019 – Kurri Kurri Nostalgia Festival - March 2019 – Councillor Doherty declared a Non Pecuniary Interest - Insignificant Conflict for the reason that he has been President of the Kurri Kurri Business Chamber and member of Towns with Heart. Councillor Doherty advised that he would remain in the Chamber and participate in discussion and voting as the conflict has not influenced him in carrying out his public duty because he has no financial interest which may affect his decision.

CC16/2019 – Request for Donation under Section 356 - Cessnock Clay Target Club Inc - Councillor Suvaal declared a Non Pecuniary Interest - Less Than Significant Conflict for the reason that he is a member of Hunter District Hunting Club that holds some events at the Clay Target Club. Councillor Suvaal advised that he would remain in the Chamber and participate in discussion and voting as the conflict has not influenced him in carrying out his public duty because it has no impact on his membership of the Club.

GMU3/2019 - Cessnock Correctional Centre Access Road - Outcome of Meetings with the Member for Cessnock and Community Representatives of the Cessnock Correctional Centre Community Consultative Committee - Councillor Suvaal declared a Non Pecuniary Interest Less Than Significant Conflict for the reason that his sister works for Justice Health on this site. Councillor Suvaal advised that he would remain in the Chamber and participate in discussion and voting as the conflict has not influenced him in carrying out his public duty because it will not affect her employment.

PETITIONS

Councillor Stapleford

Ellalong – Bus Shelter – Helena Street

Councillor Stapleford presented a Petition from residents of Ellalong asking to have the bus service restored at Helena Street Ellalong and rebuild the bus shelter.

ADDRESS BY INVITED SPEAKERS

The following person has been invited to address the meeting of Council:

Councillor Doherty declared a Non Pecuniary Interest - Insignificant Conflict for the reason that he has been President of the Kurri Kurri Business Chamber and member of Towns with Heart. Councillor Doherty remained in the Chamber and participated in the discussion and voting.

Speakers	Company	For / Against	Report	Page No.	Duration
Lesley Morris	Towns With Heart Inc	Against Recommendation	WI11/2019 - Kurri Kurri Nostalgia Festival - March 2019	176	3 mins

WORKS AND INFRASTRUCTURE NO. WI11/2019

SUBJECT: KURRI KURRI NOSTALGIA FESTIVAL - MARCH 2019

MOTION **Moved:** Councillor Gray **Seconded:** Councillor Fitzgibbon
777

RESOLVED

1. That Council supports the Kurri Kurri Nostalgia Festival on 29, 30 and 31 March 2019 by providing in-kind support as detailed in the report for the following services; waste management, road closure equipment, park management and amenity management.
2. That Council not waive fees for Street Vending and/or Market Stalls.
3. That Council allocates an amount of \$4,000 from the Tourism Related Projects Budget to cover the cost of street vending and market stalls, as it is recognised that the event attracts a large number of visitors to the LGA and this directly supports Objective 2.3 of Council's Delivery Program 2017-21, which is to increase tourism opportunities and visitation in the area

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBE OR INDIVIDUALLY WITH NOMINATED EXCEPTIONS

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Sander
778

RESOLVED

That having read and considered the reports in the agenda related to items:-

NI2/2019	Notice of Intention to Deal With Matters in Confidential Session	
PE7/2019	Development Application No. 8/2018/459/1 Proposing Extended Gaming Hours at the 'Australia Hotel' from 12 midnight to 2am (Monday to Saturday)	
	136 Wollombi Road, Cessnock	103
PE8/2019	Development Application Performance Monitoring Report – December 2018 Quarter	125
PE10/2019	Minutes of the Strategic Property & Community Facilities Committee Meeting - 20 February 2019	137
CC16/2019	Request for Donation under Section 356 - Cessnock Clay Target Club Inc.	140
CC17/2019	Minutes of the Aboriginal and Torres Strait Islander Committee meeting held 8 February 2019	145

Council adopt the recommendations as printed for those items.

FOR	AGAINST
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Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION

NOTICE OF INTENTION NO. NI2/2019

**SUBJECT: NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL
SESSION**

**PE11/2019 - MINUTES OF THE CONFIDENTIAL STRATEGIC
PROPERTY & COMMUNITY FACILILITES COMMITTEE MEETING HELD
20 FEBRUARY 2019**

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Sander
779

RESOLVED

1. That Council consider in Confidential Session the following matters in accordance with Section 10A(2)(di) & (dii) of the Local Government Act 1993:

Report No. PE11/2019 - Minutes of the Confidential Strategic Property & Community Facilitates Committee Meeting held 20 February 2019, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; AND commercial information of a confidential nature that would, if disclosed (ii) confer a commercial advantage on a competitor of the Council.

2. That Council request the Mayor in accordance with Section 253 of Local Government (General) Regulation 2005 to report on these matters to the meeting in Open Session following completion of the Confidential Session.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

MOTIONS OF URGENCY

MOTIONS OF URGENCY NO. MOU3/2019

SUBJECT: MOTIONS OF URGENCY

NIL

GENERAL MANAGER'S UNIT

GENERAL MANAGER'S UNIT NO. GMU3/2019

SUBJECT: CESSNOCK CORRECTIONAL CENTRE ACCESS ROAD - OUTCOME OF MEETINGS WITH THE MEMBER FOR CESSNOCK AND COMMUNITY REPRESENTATIVES OF THE CESSNOCK CORRECTIONAL CENTRE COMMUNITY CONSULTATIVE COMMITTEE

Councillor Suvaal declared a Non Pecuniary Interest Less Than Significant Conflict for the reason that his sister works for Justice Health on this site. Councillor Suvaal remained in the Chamber and participated in discussion and voting.

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Gray
780

RESOLVED

That Council receives and notes this report.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

GENERAL MANAGER'S UNIT NO. GMU4/2019

**SUBJECT: BUSINESS CASE AND FUNDING ARRANGEMENTS FOR NSW
GROWING LOCAL ECONOMIES: UPGRADE OF CESSNOCK AIRPORT**

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander
781
RESOLVED

That Council endorse the submission of a full application to NSW Growing Local Economies Fund for the Cessnock Airport Upgrade project with a total project cost of \$8,848,197 that includes a co-contribution from Council of 25 percent or \$2,212,049.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE7/2019

SUBJECT: **DEVELOPMENT APPLICATION NO. 8/2018/459/1 PROPOSING
EXTENDED GAMING HOURS AT THE 'AUSTRALIA HOTEL' FROM 12
MIDNIGHT TO 2AM (MONDAY TO SATURDAY)**

136 WOLLOMBI ROAD, CESSNOCK

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Sander
782
RESOLVED

1. That:

- (i) Development Application No. 8/2018/459/1 proposing the extension of gaming hours from 12 midnight to 2am (Monday to Saturday) at the 'Australia Hotel', at 136 Wollombi Road Cessnock, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons contained in this report.**
 - (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:**

 - **The proposal is likely to have an adverse social impact on the community with regards to an increase in anti-social behavior, criminal activity and public order incidents.**
 - **The subject land is not considered suitable for the proposal given its location within an established residential area.**
 - **The proposal is not considered to be in the wider public interest.**
 - (iii) In considering community views, the following is relevant:**

 - **The issues and concerns raised by the community in relation to adverse social impacts have been taken into consideration in the assessment of the application and the determination reflects the community's concerns.**
 - (iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979**
- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASONS FOR REFUSAL

1. The proposed extension of gaming trading hours is likely to have an adverse social impact on the surrounding neighborhood with regards to an increase in anti-social behavior, criminal activity and public order incidents (*pursuant to Section 4.15(1)(b) Environmental Planning and Assessment Act 1979*).
2. The subject land is considered unsuitable for the proposal given its location within an established residential area (*pursuant to Section 4.15(1)(c) Environmental Planning and Assessment Act 1979*).
3. The proposal is not considered to be in the wider public interest (*pursuant to Section 4.15(1)(e) Environmental Planning and Assessment Act 1979*).

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE8/2019

**SUBJECT: DEVELOPMENT APPLICATION PERFORMANCE MONITORING
REPORT - DECEMBER 2018 QUARTER**

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Sander
783
RESOLVED

That Council receives the report and notes the information.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE9/2019

SUBJECT: VINEYARD GROVE STAGE 8 DEVELOPMENT

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander

784

RESOLVED

1. That Council sell proposed lots 801 to 841 being part of Lot 1210 DP1102977 of the Vineyard Grove Stage 8 development and authorise the General Manager to negotiate the sale(s) for no less than 90% of the independent valuation obtained.
2. That Council authorise the General Manager to sign all documents associated with the e-conveyancing transactions including a Client Authorisation form to Council's legal representative to effect the sale of proposed lots 801 to 841 being part of Lot1210 DP1102977 of the Vineyard Grove Stage 8 Development.
3. That Council authorise the Common Seal of Cessnock City Council to be affixed to all documents relating to the plan of subdivision and sale of the proposed lots 801 to 841 being part of Lot1210 DP1102977 of the Vineyard Grove Stage 8 Development, and authorise the Mayor and General Manager to execute those documents.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE10/2019

SUBJECT: MINUTES OF THE STRATEGIC PROPERTY & COMMUNITY FACILITIES COMMITTEE MEETING - 20 FEBRUARY 2019

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Sander
785
RESOLVED

That the Minutes of the Strategic Property & Community Facilities Committee meeting of 20 February 2019 be adopted as a resolution of the Ordinary Council.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC16/2019

SUBJECT: REQUEST FOR DONATION UNDER SECTION 356 - CESSNOCK CLAY TARGET CLUB INC.

Councillor Suvaal declared a Non Pecuniary Interest - Less Than Significant Conflict for the reason that he is a member of Hunter District Hunting Club that holds some events at the Clay Target Club. Councillor Suvaal remained in the Chamber and participated in discussion and voting.

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Sander
786

RESOLVED

That Council include the property at 563 Maitland Road, Cessnock which is leased from the Crown by Cessnock Clay Target Club Inc. in the listing of community groups receiving a subsidy under the Policy “Rates Subsidy to Community Organisations” and in accordance with the Policy the subsidy is to apply from the 2019-20 rating year.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC17/2019

**SUBJECT: MINUTES OF THE ABORIGINAL AND TORRES STRAIT ISLANDER
COMMITTEE MEETING HELD 8 FEBRUARY 2019**

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Sander
787
RESOLVED

1. That the Minutes of the Aboriginal and Torres Strait Islander Committee held on 8 February 2019 be adopted as a resolution of the Ordinary Council.
2. That on the Information Bay signage in areas where no concerns have been raised, an Acknowledgement of Country be incorporated onto the signs and the wording be 'Cessnock City Council acknowledges Wonnarua people as the traditional custodians of the land on which we stand. We pay our respects to Elders past, present and future and extend our respects to neighbouring Aboriginal nations'.
3. That the names of the Council Administration Building Meeting rooms be:
 - Wonnarua Room (facing the Administration Building Foyer)
 - Darkinjung Room
 - Awabakal Room
 - Kawal Room
 - Yengo Room (facing the Administration Building Foyer)
4. That Council host an Elders Morning Tea for National Reconciliation Week 2019.
5. That the General Manager investigate the possibility of hosting an alternative event for National Reconciliation Week 2020 including a film screening at Cessnock Performing Arts Centre and the Committee be provided with a list of films for review.
6. That the Committee be provided with a Progress Report for items in the Innovate Reconciliation Action Plan relating to Cultural Awareness training and the report be tabled at the next Committee meeting.
7. That the General Manager consider inviting a representative from Ungooroo Aboriginal Corporation to present to the Committee a summary of the Cultural Awareness training delivered to Council staff.
8. That a Progress Report for the Innovate Reconciliation Action Plan be provided to Council at the conclusion of its first 12 months.
9. That the Committee be provided with a Progress Report for items in the Innovate Reconciliation Action Plan relating to Employment, the Elsa Dixon Traineeship Program and any related plans or applications.

FOR	AGAINST
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Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	

	Total (0)
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CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI9/2019

SUBJECT: ARMIDALE STREET, ABERMAIN - PETITION OPPOSING ONE-WAY TRAFFIC

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander
788
RESOLVED

1. That Council note the petition lodged by residents of Armidale Street, Abermain opposing a proposed one-way traffic system on Armidale Street.
2. That Council not proceed with the proposal.
3. That the General Manager write to the organizer of the petition to advise the outcome.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

WORKS AND INFRASTRUCTURE NO. WI10/2019

SUBJECT: HUNTER EXPRESSWAY - REVIEW OF ROAD CLASSIFICATIONS

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander

789

RESOLVED

1. That Council concur with the RMS proposed reclassification of roads along the connection route from the HEX, Loxford to State Route B68 on Cessnock Road, Abermain via Hart Road, Gingers Lane, Frame Drive and Orange Street.
2. That Council accept reclassification of the roads along the route from Local Roads to unclassified Regional Roads.
3. That Council confirm with RMS that no load limit will be imposed along the route, other than in unforeseen cases outside the control of Council.
4. That the General Manager request RMS to also consider reclassification from Local Roads to unclassified Regional Roads along the associated road connection route from Hart Road, Loxford to Northcote Street, Kurri Kurri via Government Road and Mitchell Avenue.
5. That the General Manager respond to the RMS proposal in accordance with this resolution.
6. That the General Manager request RMS to also consider reclassification from Local Roads to unclassified Regional Roads of Camp Road Greta.

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent

Total (12)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI12/2019

SUBJECT: NAMING OF PARK, QUARRY STREET, CESSNOCK

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons

1. That Council formally names the park locally known as Quarry Street Park as “Freemasons Park” subject to gazettal by the Geographical Names Board of NSW.
2. That if approval is received from the Geographical Names Board of NSW, Council install appropriate signage.
3. That the Lodge Cessnock, as the applicant for the naming be notified of the outcome of the application.

AMENDMENT **Moved:** Councillor Olsen

That Council put the proposal to rename the park locally known as Quarry Street Park as “Freemasons Park on public exhibition.

The Amendment lapsed for want of a Seconder.

The Motion was then **PUT** and **CARRIED**.

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
790
RESOLVED

1. That Council formally names the park locally known as Quarry Street Park as “Freemasons Park” subject to gazettal by the Geographical Names Board of NSW.
2. That if approval is received from the Geographical Names Board of NSW, Council install appropriate signage.
3. That the Lodge Cessnock, as the applicant for the naming be notified of the outcome of the application.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

BUSINESS WITH NOTICE NO. BN3/2019

SUBJECT: KURRI KURRI NETBALL COURTS RESURFACING

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Burke

791

RESOLVED

1. That the General Manager investigate and report on the spraying of the Kurri Kurri Netball Courts with Polymer Modified Bitumen to extend the life of the netball court surface.
2. That the General Manager investigate and undertake works for a cleaning option for courts 1 – 4 before 12 April 2019.
3. That the General Manager investigate a sealing/paint option for courts 1 – 3 within one month.
4. That the General Manager convene a meeting of stakeholders including responsible council staff, Kurri Kurri Netball Administrators and Ward D Councillors once the investigations are carried out.
5. That funding for works identified in resolution 2 be funded by a future budget review.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

BUSINESS WITH NOTICE NO. BN4/2019

SUBJECT: RICHMOND MAIN RV PARK

MOTION **Moved:** Councillor Gray **Seconded:** Councillor Burke

792

RESOLVED

That Council include the following as a specific action in the 2019-20 Operational Plan:

Investigate opportunities for the Richmond Main site to become an eco-tourism/outdoor adventure hub that would co-exist with the current cultural and heritage use of the site.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

ANSWERS TO QUESTIONS FOR NEXT MEETING

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ18/2019

SUBJECT: CROSSING AT CESSNOCK HIGH SCHOOL

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ19/2019

SUBJECT: KURRI KURRI COMMUNITY CENTRE

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ20/2019

SUBJECT: CESSNOCK TAFE GROUND MAINTENANCE

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ21/2019

SUBJECT: COMPLYING DEVELOPMENT MEMBERSHIP

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ22/2019

SUBJECT: RESPONSE TO QUESTIONS

The answer was noted.

QUESTIONS FOR NEXT MEETING

Councillor Rod Doherty

ROTARY PARK KURRI KURRI

Councillor Doherty asked why would Council employees dig up a large patch of grass in Rotary Park in Kurri Kurri and resurface with brand new turf in the middle of a drought and only three weeks out from the Nostalgia Festival.

Councillor Ian Olsen

STATE MEMBER \$8M FOR ROAD WORK BACKLOG

Councillor Olsen referred to the announcement from the State Member that \$8m would be available to help fix the \$16m backlog of roads and asked for a list of the \$16m of works and how it is prioritised.

Councillor Ian Olsen

COUNCIL MEMBERSHIPS

Councillor Olsen referred to his previous question regarding Council memberships and asked why we are not mentioned on the Sydney Regional Organisation of Councils Street Lighting website as a member.

Councillor Allan Stapleford

KURRI KURRI NETBALL COURTS

Councillor Stapleford referred to Councillor Doherty's Notice of Motion and asked if an Engineer would be able to look at the courts and report back to Council.

COUNCILLOR'S REPORTS

NIL

7.31PM

Confidential reports (closed session)

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
793

RESOLVED

That the meeting move into closed session in order to consider confidential items.

FOR	AGAINST
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Councillor Olsen

Councillor Doherty

Councillor Dunn

Councillor Fagg

Councillor Stapleford

Councillor Suvaal

Councillor Fitzgibbon

Councillor Gray

Councillor Burke

Councillor Sander

Councillor Lyons

Councillor Pynsent

Total (12)

Total (0)

CARRIED UNANIMOUSLY

7.32PM

Open Session

The meeting moved back into open session and the General Manager reported on the outcome.

PLANNING AND ENVIRONMENT NO. PE11/2019

SUBJECT: MINUTES OF THE CONFIDENTIAL STRATEGIC PROPERTY & COMMUNITY FACILITIES COMMITTEE MEETING HELD 20 FEBRUARY 2019

This matter is considered to be confidential under Section 10A(2) (di) (dii) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; AND commercial information of a confidential nature that would, if disclosed (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander
794
RESOLVED

1. That the Minutes of the Confidential Strategic Property & Community Facilities Committee Meeting of 20 February 2019 be adopted as a resolution of the Ordinary Council.
2. That Council endorse the General Manager undertaking a tender process for the design and construction of four (4) dual-occupancy dwellings at Lots 14 -16 & Lot 95 in DP 15069, known as the Dover Street properties.
3. That Council allocate \$70,000 from the Property Investment Fund to fund and progress necessary validation works for Stage 4 of Hebburn Estate.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

The Meeting Was Declared Closed at 7.33pm

CONFIRMED AND SIGNED at the meeting held on 20 March 2019

.....**CHAIRPERSON**

.....**GENERAL MANAGER**

Disclosures Of Interest

Report No. DI4/2019

Corporate and Community Services



SUBJECT: *DISCLOSURES OF INTEREST*

RESPONSIBLE OFFICER: *Finance and Administration Manager - Andrew Glauser*

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

SUMMARY

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

ENCLOSURES

There are no enclosures for this report.

Mayoral Minute

Report No. MM3/2019

General Manager's Unit



MAYORAL MINUTE No. MM3/2019

SUBJECT: MINUTES OF THE ORGANISATIONAL AND GENERAL MANAGERS REVIEW COMMITTEE MEETING HELD 11 MARCH 2019

RECOMMENDATION

1. That the Minutes of the Organisational and General Managers Review Committee meeting of 11 March 2019 be adopted as a resolution of the Ordinary Council.
2. That Council receive and note the resignation of Stephen Glen, General Manager and that the Council agree to Mr Glen's last day of service being Wednesday, 31 July 2019.
3. That Council seek a minimum of three expressions of interest from suitably qualified management consultants to assist Council in the recruitment and appointment of a new General Manager including the facilitation of a workshop with Council to review the position description and develop a profile of the desired qualities for suitable candidates. The closing date for such expressions of interest will be 28 March 2019.
4. That the Organisational and General Managers Review Committee consider all expressions of interest received from the management consultants and make recommendations to Council for consideration at the Ordinary Council meeting of 3 April 2019.

MINUTES OF THE ORGANISATIONAL AND GENERAL MANAGERS REVIEW COMMITTEE MEETING OF CESSNOCK CITY COUNCIL HELD ON 11 MARCH 2019, COMMENCING AT 12.30 PM

PRESENT: The Mayor, Councillor Pynsent
Councillors Stapleford, Suvaal, Burke & Lyons (Alternate)

IN ATTENDANCE: Darrylen Allan, Human Resource Manager

APOLOGIES: NIL

LISTED MATTERS

- a. Resignation of Stephen Glen, General Manager
- b. The process for the recruitment of a new General Manager

Mayoral Minute

Report No. MM3/2019

General Manager's Unit



RESOLUTIONS

1. That Council receive and note the resignation of Stephen Glen, General Manager and that the Council agree to Mr Glen's last day of service being Wednesday, 31 July 2019.

Moved: Councillor Suvaal

Seconded: Councillor Burke

2. That Council seek a minimum of three expressions of interest from suitably qualified management consultants to assist Council in the recruitment and appointment of a new General Manager including the facilitation of a workshop with Council to review the position description and develop a profile of the desired qualities for suitable candidates. The closing date for such expressions of interest will be 28 March 2019.

Moved: Councillor Burke

Seconded: Councillor Suvaal

3. That the Organisational and General Managers Review Committee, be appointed to consider all expressions of interest received from the management consultants and make recommendations to Council for consideration at the Ordinary Council meeting of 3 April 2019.

Moved: Councillor Burke

Seconded: Councillor Suvaal

GENERAL BUSINESS

NIL

ENCLOSURES

There are no enclosures for this report

Motions of Urgency

Report No. MOU4/2019

Corporate and Community Services



SUBJECT: *MOTIONS OF URGENCY*

RESPONSIBLE OFFICER: *Finance and Administration Manager - Andrew Glauser*

RECOMMENDATION

That Councillors now indicate if there are any matters of urgency which they believe should be conducted at this meeting of Council.

SUMMARY

Under Clause 10.5 of Council's Code of Meeting Practice, business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. This can only happen if a motion is passed to have the business transacted at the meeting, the Mayor rules that the business is of great urgency and the business notified in the agenda for the meeting has been disposed of.

Only the mover of such a motion can speak to the motion before it is put.

ENCLOSURES

There are no enclosures for this report.

Planning and Environment

Report No. PE12/2019

Planning and Environment



SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/707/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

21 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/707/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 408 DP 1242225
PROPERTY ADDRESS:	21 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr ALB Lim & Ms GL Yip
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/707/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 408 DP 1242225, 21 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/707/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/707/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 21 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 24 submissions representing 17 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

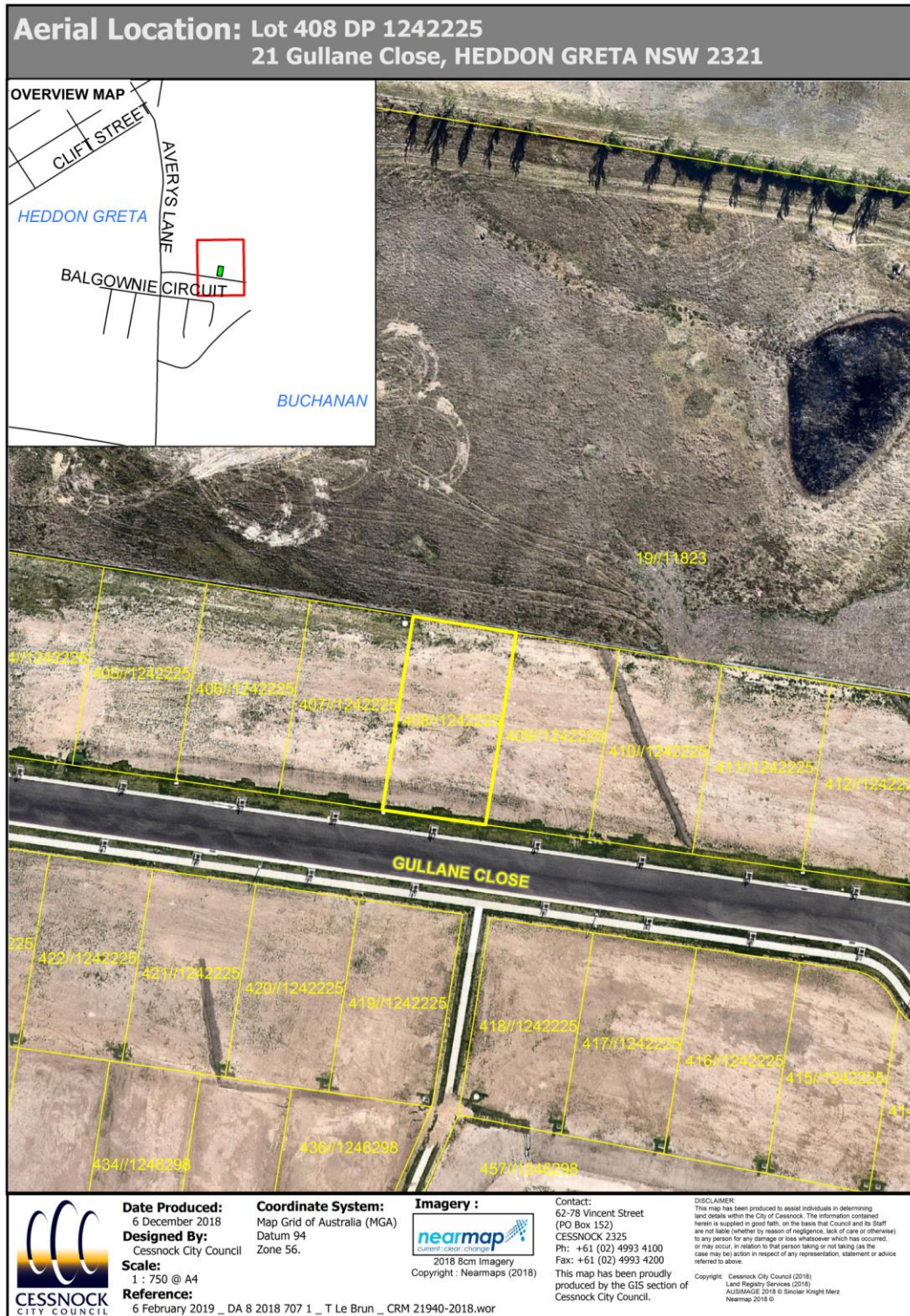
Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



Planning and Environment

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Planning and Environment



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 21 Gullane Close, Heddon Greta, and is legally described as Lot 408 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to the private open space provisions.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications. The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> , Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/707/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 6.35m from the front boundary, 1.28m from the side boundaries and 3.99m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

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Planning and Environment



2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the northwest corner to the south east. The applicant proposes a maximum of 600mm cut and a maximum of 400mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.


Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 1.7m and 1.8m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No

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2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 6.35m from the front property boundary to the face of the external wall.	Yes
	Parking and garages do not dominate the street.	<i>Garage width</i> The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.	Yes
2.3.5 Private Open Space	1 – 2 bedrooms = 50m ² 3+ bedrooms = 70m ² Principal Area = 4m x 4m	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> A total of 70m² of private open space per dwelling; A minimum dimension of 3m; and A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 58m², which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 17% variation is proposed to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	No
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area.	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p> 	No

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		<p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room).	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high.	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 6.9m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 500mm high on the western boundary. No front fencing has been shown on the plans.</p>	Yes

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2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling.	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy.	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows a 12m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property.	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes

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13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in.</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in.</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements.</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Twenty four (24) submissions were received during the exhibition period representing seventeen (17) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with

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	<p>an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

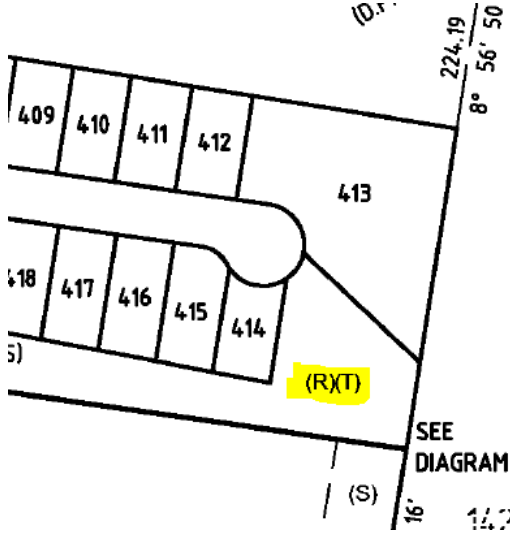
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Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>

<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>

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Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>

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<p>Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
<p>Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
<p>The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility</p>	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

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SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

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It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape; private open space; external appearance and landscape design. These variations are unable to supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1  Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/708/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

15 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/708/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 405 DP 1242225
PROPERTY ADDRESS:	15 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	D & L Pay Pty Ltd
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/708/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 405 DP1242225 15 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/708/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/708/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 15 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 23 submissions representing 16 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



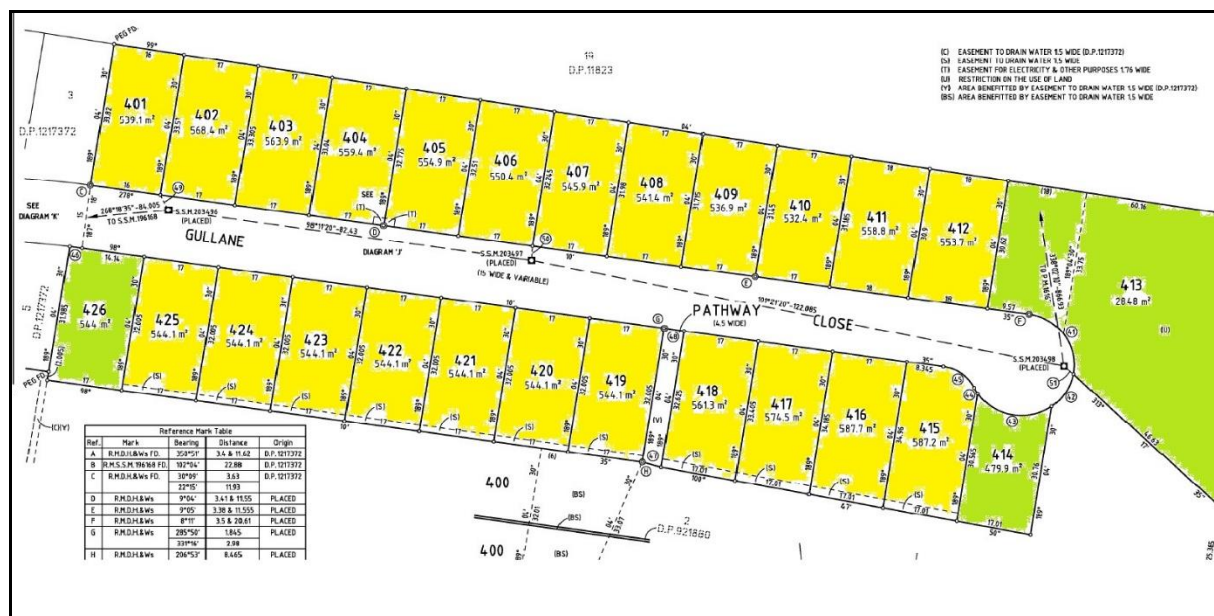
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 15 Gullane Close, Heddon Greta, and is legally described as Lot 405 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks and private open space provisions.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
7 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/708/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.4m from the front boundary, a minimum of 1.28m from the side boundaries and 5.4m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

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The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

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2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the northwest corner to the south east. The applicant proposes a maximum of 500mm cut and a maximum of 500mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 5.7m and 1.9m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No

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2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.4m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 9% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m² 3+ bedrooms = 70m² Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 69m², which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 1.40% variation is proposed to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	No
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>	No

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		 <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 8.48m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.	Yes

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		The plans indicate a retaining wall of 500mm high on the western boundary. No front fencing has been shown on the plans.	
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two 6.5m² garden beds located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes

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13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Twenty three (23) submissions were received during the exhibition period representing sixteen (16) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p>

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	<p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
<p>Increased number of vehicles parking on the street due to limited/insufficient parking on site</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
<p>Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street</p>	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
<p>Services vehicles will have trouble accessing the street</p>	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
<p>Where will the garbage bins be put if vehicles are parked on the street</p>	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
<p>Increase in noise due to traffic and increased density</p>	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
<p>Safety for children playing</p>	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>

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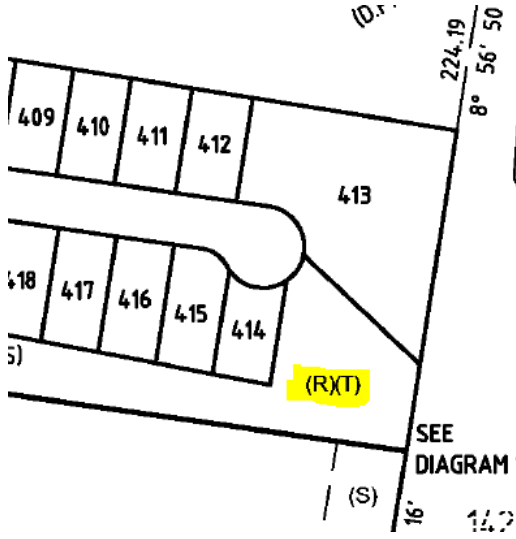
Loss of neighbourhood amenity	The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>

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<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>The block sizes are too small for dual occupancies</p>	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>

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Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>

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Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; private open space; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
7. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/709/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

13 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/709/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 404 DP 1242225
PROPERTY ADDRESS:	13 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr PJ Thompson & Ms TM Jocumsen
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/709/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 404 DP 1242225 13 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/709/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/709/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 13 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 23 submissions representing 17 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 13 Gullane Close, Heddon Greta, and is legally described as Lot 404 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
7 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/709/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.4m from the front boundary, approximately 1.28m from the side boundaries and 5.7m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

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2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the northwest corner to the south east. The applicant proposes a maximum of 700mm cut and a maximum of 700mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.


Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 1.6m and 5.5m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No

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2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.4m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 9% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 70m², which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p> 	No

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		<p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.28m for the side and 8.8m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 700mm high on the western boundary. No front fencing has been shown on the plans.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is	Yes

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		proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two 6.5m² garden beds located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in	The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.	Yes

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	<p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Twenty three (23) submissions were received during the exhibition period representing seventeen (17) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with

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	<p>an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this</p>

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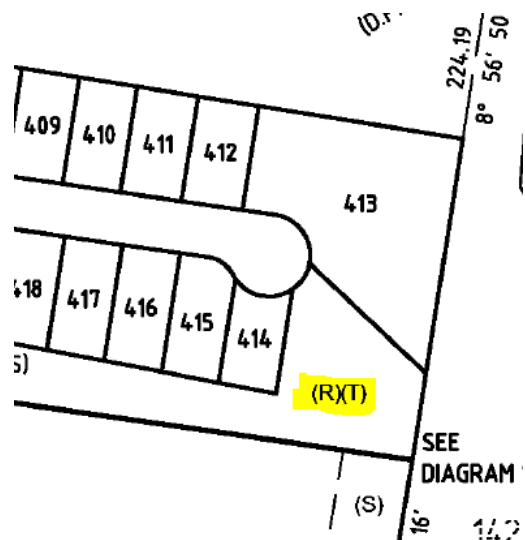
	development is consistent with other forms of residential development, and the risks would be similar.
Loss of neighbourhood amenity	The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park,</p>

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	<p>however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>

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The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>

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<p>Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
<p>The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility</p>	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/710/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

24 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/710/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 417 DP 1242225
PROPERTY ADDRESS:	24 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr. KB Corcoran
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/710/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 417 DP 1242225 24 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/710/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/710/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 24 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 15 submissions representing 12 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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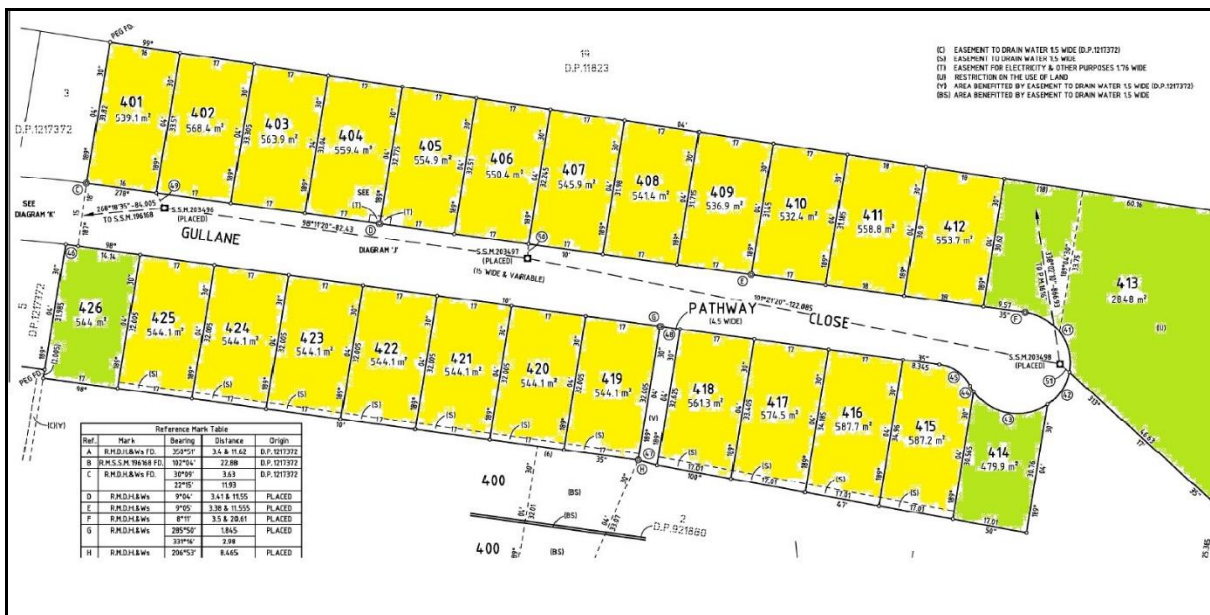
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 24 Gullane Close, Heddon Greta, and is legally described as Lot 417 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
17 October 2018	Application referred to Council's Development Engineer for assessment.
19 October 2018	Preliminary assessment undertaken. The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Details of colours and finishes submitted by the applicant.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Amended Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setback provision.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
	Applicant requested to address the front setback variation.
	Applicant submits justification regarding the variation to the Cessnock DCP with incorrect DA number reference and is advised to correct this error.
	Justification re-submitted by the applicant, prescribing the correct DA number reference.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
11 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/710/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- 1 bedroom/media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 9.1m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

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2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.0m from the northwest corner to the south east. The applicant proposes a maximum of 400mm cut and a maximum of 300mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.


Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 5.6m each from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No

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2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.7m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17.0m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The approximate private open space calculation for dwelling A is 92.2m² and dwelling B is 96m² which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area.	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design,</p>	No

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		<p>a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room).	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high.	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.28m for the side and 9.1m from the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>Retaining walls are proposed on the eastern and western boundaries of a maximum height of 200mm and 350mm respectively.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling.	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for	Yes

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		stacked parking, resulting in the required two spaces per dwelling.	
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy.	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows a 9.7m² garden bed located in front of each dwelling two driveways, totaling to 19.4m² in area. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property.	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in.	The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.	Yes

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	<p>Roads to be designed to reduce vehicle headlights shining onto the drive-in.</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements.</p>	<p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 19 October and 2 November 2018.

Fifteen (15) submissions were received during the exhibition period representing twelve (12) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

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Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to	Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.

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limited/insufficient parking on site	The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	The land is located in a newly released residential area which is predominately vacant.

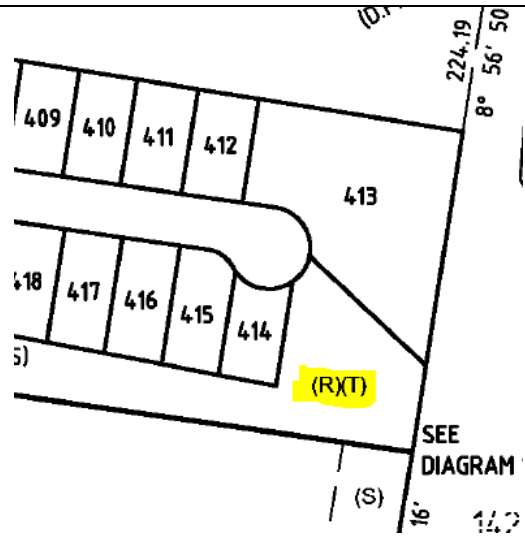
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	Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services	A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:

	 <p>This reservation/restriction will provide access to the creek, should it be required.</p>
Problems with emergency evacuation of the street due to increased population density, width of road	Refer to previous discussion in this table regarding street design and access by service vehicles.
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>

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Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.

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(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/711/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

9 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/711/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 402 DP1242225
PROPERTY ADDRESS:	9 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr JP Lawton & Ms ML Chu
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/711/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 402 DP1242225 9 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/711/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/711/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 9 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 15 submissions representing 12 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

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LOCATION MAP



AERIAL



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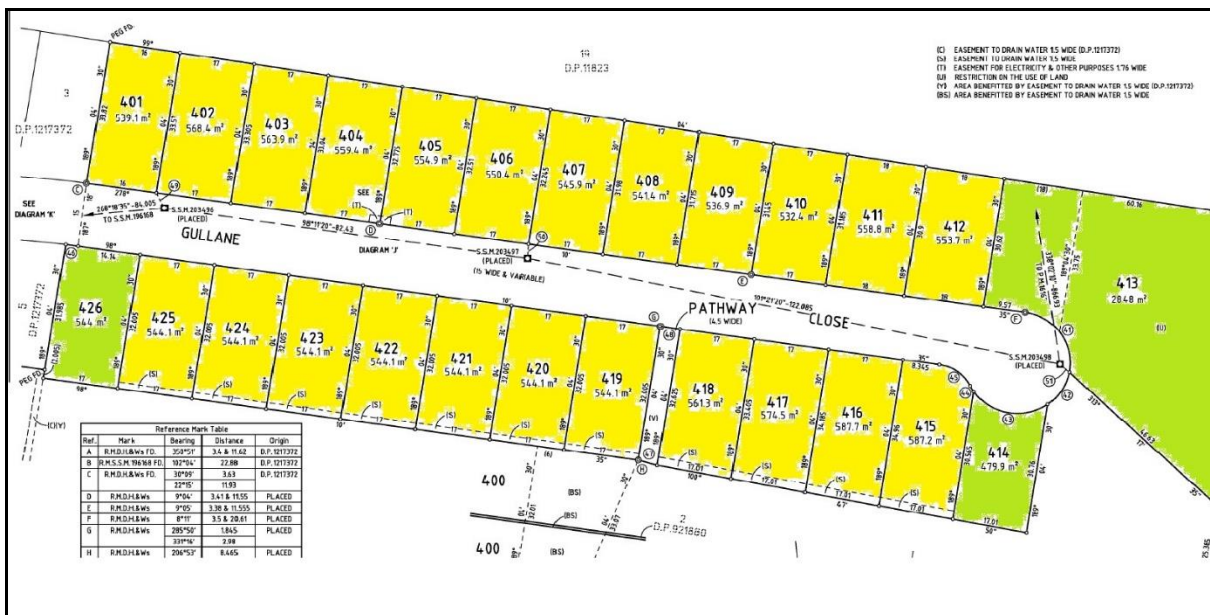
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 9 Gullane Close, Heddon Greta, and is legally described as Lot 402 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
7 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/711/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.4m from the front boundary, approximately 1.28m from the side boundaries and 6.2m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

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2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the northwest corner to the south east. The applicant proposes a maximum of 500mm cut and a maximum of 500mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.


Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 1.7m and 1.8m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No

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2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.4m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 9% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m² 3+ bedrooms = 70m² Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 80m², which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p> 	No

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		<p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.28m for the side and 9m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 500mm high on the western boundary. No front fencing has been shown on the plans.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is	Yes

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		proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows a 13.4m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in	The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.	Yes

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	<p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 19 October and 2 November 2018.

Fifteen (15) submissions were received during the exhibition period representing twelve (12) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>

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Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>

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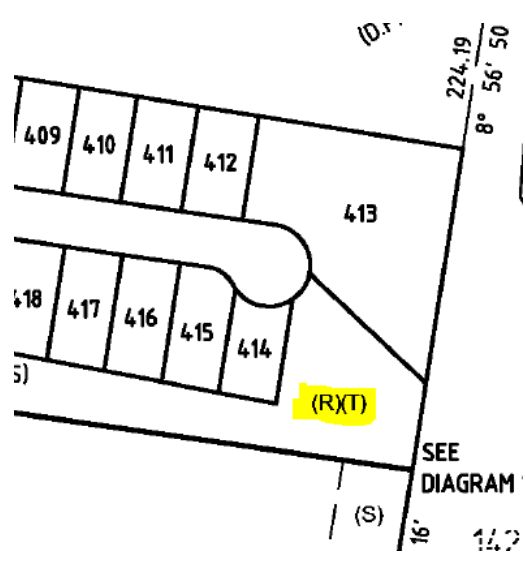
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>

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<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>The block sizes are too small for dual occupancies</p>	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
<p>Lack of infrastructure in the area i.e. public transport, shops and sports fields</p>	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>

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No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p>

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disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	Therefore, it is considered that any copyright infringement opportunities, will be minimal.
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1  Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/712/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

7 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/712/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 401 DP 1242225
PROPERTY ADDRESS:	7 Gullane Close, Heddton Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr HW & Mrs JM Jones
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/712/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 401 DP 1242225 7 Gullane Close Heddton Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/712/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/712/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 7 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 13 submissions representing 11 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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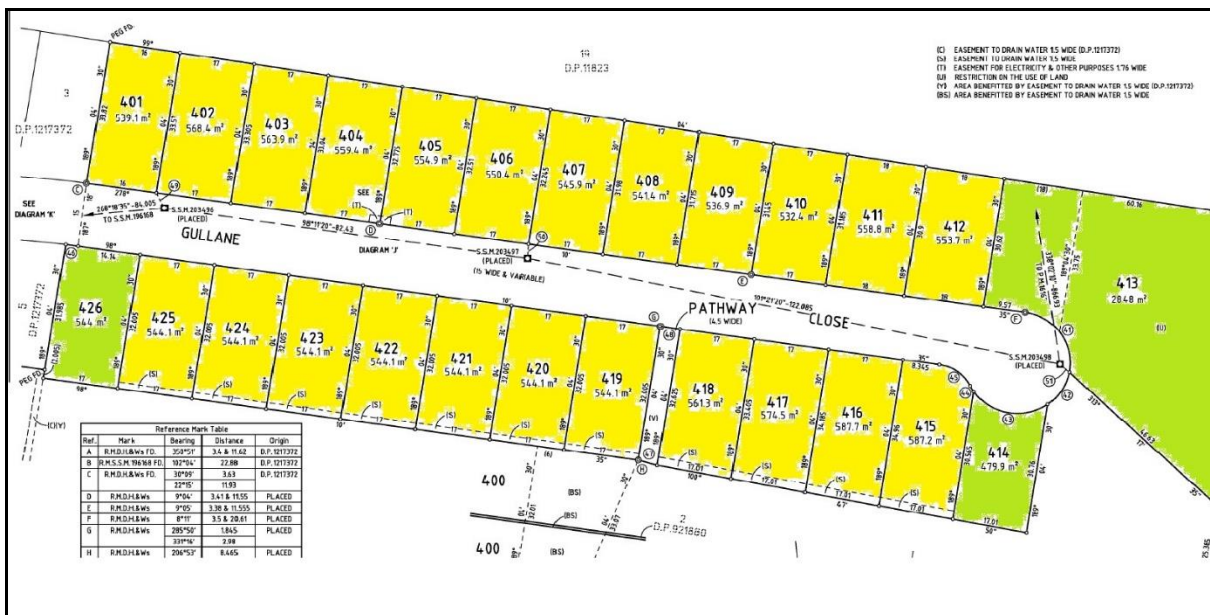
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 7 Gullane Close, Heddon Greta, and is legally described as Lot 401 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks and private open space provisions.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
7 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/712/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- Dwelling A – 3 bedrooms and Dwelling B - 2 bedrooms
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.1m from the front boundary, 1.68m from the side boundaries and 6.54m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof is proposed.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

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The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

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• Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the northwest corner to the south east. The applicant proposes a maximum of 475mm cut and a maximum of 475mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 3.8m and 6m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes

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Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.1m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 15% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages</p>	Yes

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		for each dwelling. The width of each garage door is 2.4m. The width of the lot is 16m, which results in the garages taking up 30% of the total frontage.	
2.3.5 Private Open Space	1 – 2 bedrooms = 50m ² 3+ bedrooms = 70m ² Principal Area = 4m x 4m	<p>Dwelling A will contain 3 bedrooms and Dwelling B will contain 2 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • Total private open space for Dwelling A is 70m² and Dwelling B is 50m²; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for Dwelling A is approximately 62m², which does not meet the 70m² requirement.</p> <p>The private open space calculation for Dwelling B is approximately 68.7m², which complies with the 50m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 11.4% variation is proposed for Dwelling A with regard to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	<p>Dwelling A = No</p> <p>Dwelling B = Yes</p>
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic</p>	No

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		<p>elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to be approximately 1.68m for the side and 8.3m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any retaining walls or front fencing to be constructed.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, with Dwelling A containing 3 bedrooms and Dwelling B containing 2 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes

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2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two garden beds having areas of 4.7m² and 9.8m² located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in	The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.	Yes

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	<p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Thirteen (13) submissions were received during the exhibition period representing eleven (11) households. All of the submissions received were in objection to the proposal.

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The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>

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Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that Dwelling A will contain 3 bedrooms and Dwelling B will contain 2 bedrooms, which requires two (2) and one (1) carparking spaces respectively. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>

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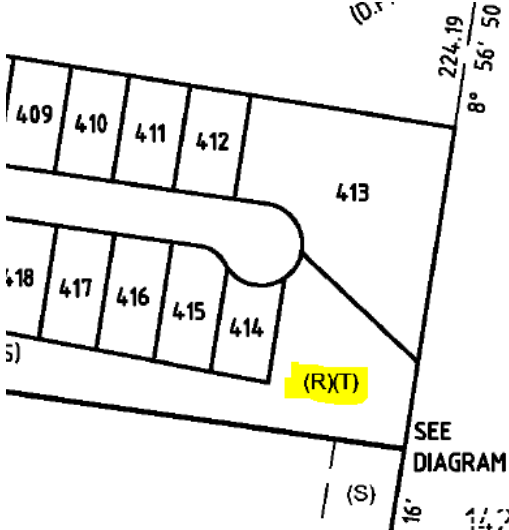
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that Dwelling A will contain 3 bedrooms and Dwelling B will contain 2 bedrooms, which requires two (2) and one (1) carparking spaces respectively. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
No storage areas have been provided for each unit. This will result in the garages being used for	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p>

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storage, not parking.	There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.
Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
Problems with emergency evacuation of the street due to increased population density, width of road	Refer to previous discussion in this table regarding street design and access by service vehicles.
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and</p>

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	Maitland.
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p>

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required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	Therefore, it is considered that any copyright infringement opportunities, will be minimal.
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$13,460.66 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 4,128.87
Community Facilities	\$ 2,863.19
Road and Traffic Facilities	\$ 6,316.75
Plan Management Administration	\$ 151.85
Total	\$13,460.66

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; private open space; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
7. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/713/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

26 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/713/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 416 DP 1242225
PROPERTY ADDRESS:	26 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr SL Costain
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/713/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 416 DP 1242225 26 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/713/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/713/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 26 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 23 submissions representing 19 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 26 Gullane Close, Heddon Greta, and is legally described as Lot 416 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/713/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- Media room / bedroom
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.6m from the front boundary, a minimum of 1.28m from the side boundaries and 9.8m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

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The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof is proposed.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

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• Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

• Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the south east corner to the northwest. The applicant proposes a maximum of 350mm cut and a maximum of 350mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback 5.6m from the side boundaries.	Yes

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		The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.6m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 23.30% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No

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	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> A total of 70m² of private open space per dwelling; A minimum dimension of 3m; and A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for Dwelling A is 96.7m² and Dwelling B 110.5m², which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all</p>	No

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		<p>contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.28m for the side and 9.8m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 6m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 200mm high on the eastern boundary. No front fencing has been shown on the plans.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two 8.5m² garden bed located between the two</p>	No

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		<p>driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Twenty three (23) submissions were received during the exhibition period representing nineteen (19) households. All of the submissions received were in objection to the proposal.

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The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>

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Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>

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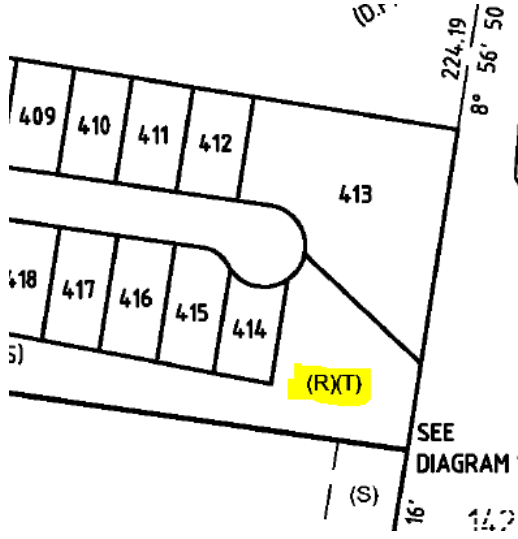
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>

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<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>The block sizes are too small for dual occupancies</p>	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>

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Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.</p>
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>

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Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$1825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are unable to be supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1  Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/714/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

22 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/714/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 418 DP 1242225
PROPERTY ADDRESS:	22 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr PW & Mrs KA Maurice
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/714/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 418 DP 1242225 22 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/714/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/714/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 22 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 22 submissions representing 18 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 22 Gullane Close, Heddon Greta, and is legally described as Lot 418 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/714/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- Media room / bedroom
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 8.1m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof is proposed.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

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• Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

• Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the south east corner to the northwest. The applicant proposes a maximum of 450mm cut and a maximum of 500mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback 5.8m and 5.6m from the side boundaries.	Yes

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		The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.7m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No

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	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for Dwelling A is 84.5m² and Dwelling B is 86m², which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of</p>	No

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		<p>each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.28m for the side and 8.7m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 6m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any retaining walls or front fencing to be constructed.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two 9.5m² garden beds located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have</p>	No

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		<p>been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Twenty two (22) submissions were received during the exhibition period representing eighteen (18) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>

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<p>Increased number of dwellings pose traffic safety issues</p>	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
<p>The development contradicts Part 2 of the Section 88B in DP 1217372</p>	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
<p>Increase in traffic in Gullane Close and traffic congestion</p>	<p>Refer to previous comments in this table.</p>
<p>Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street</p>	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
<p>Increased number of vehicles parking on the street due to limited/insufficient parking on site</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>

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Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>

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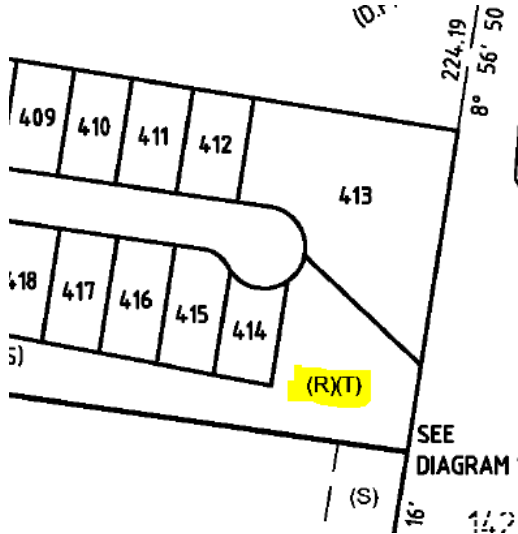
<p>Inconsistent with the context of the surrounding properties</p>	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
<p>Information submitted to Council is inaccurate - supporting documents referenced different Council</p>	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
<p>The proposed development should be considered as medium density development</p>	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>

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<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>The block sizes are too small for dual occupancies</p>	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
<p>Lack of infrastructure in the area i.e. public transport, shops and sports fields</p>	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>

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No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.</p>
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p>

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disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	Therefore, it is considered that any copyright infringement opportunities, will be minimal.
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

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INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/715/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

12 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/715/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 423 DP 1242225
PROPERTY ADDRESS:	12 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr DA Hanneysee & Mrs MJ Ballantyne
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/715/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 423 DP 1242225 12 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/715/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/715/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 12 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 22 submissions representing 17 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 12 Gullane Close, Heddon Greta, and is legally described as Lot 423 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/715/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- Media room / bedroom
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.735m from the front boundary, 1.28m from the side boundaries and 7.3m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof is proposed.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

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- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the south east corner to the northwest. The applicant proposes a maximum of 500mm cut and a maximum of 500mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback over 5.5m from the side boundaries.	Yes

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		The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	
Chapter 5 Waste management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.73m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21.60% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No

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	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 76m², which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of</p>	No

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		<p>each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive facade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.3m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 6m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 500mm high on the western boundary. No front fencing has been shown on the plans.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two 8.6m² garden beds located either side of the two driveway. This plan does not demonstrate how the landscaping will integrate with the</p>	No

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		<p>street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Twenty two (22) submissions were received during the exhibition period representing seventeen (17) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane</p>

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	<p>Close resembling a medium density residential environment, rather than a low density residential environment.</p>
<p>Increased number of dwellings pose traffic safety issues</p>	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
<p>The development contradicts Part 2 of the Section 88B in DP 1217372</p>	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
<p>Increase in traffic in Gullane Close and traffic congestion</p>	<p>Refer to previous comments in this table.</p>
<p>Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street</p>	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
<p>Increased number of vehicles parking on the street due to limited/insufficient parking on site</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>

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Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>

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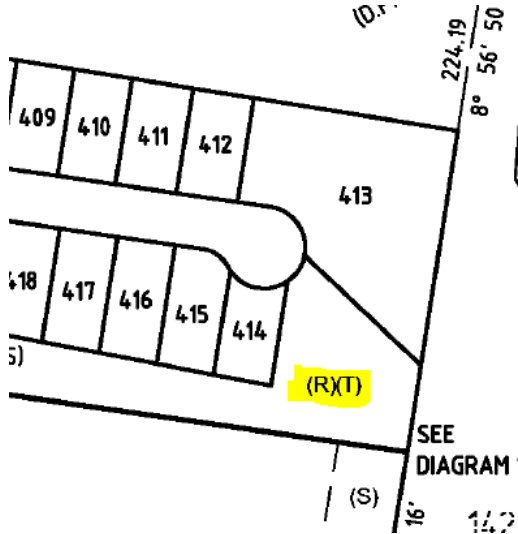
<p>Inconsistent with the context of the surrounding properties</p>	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
<p>Information submitted to Council is inaccurate - supporting documents referenced different Council</p>	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
<p>The proposed development should be considered as medium density development</p>	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>

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<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>The block sizes are too small for dual occupancies</p>	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
<p>Lack of infrastructure in the area i.e. public transport, shops and sports fields</p>	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>

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No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.</p>
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p>

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disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	Therefore, it is considered that any copyright infringement opportunities, will be minimal.
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objective of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are unable to be supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/716/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

17 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/716/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 406 DP 1242225
PROPERTY ADDRESS:	17 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr TA Mannell & Mrs BA Lind-Mannell
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/716/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 406 DP 1242225 17 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
 - The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
 - The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
 - The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
 - For the reasons outlined above, the development is contrary to the public interest.
- (iii) In considering community views, the following is relevant:
- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
 - The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
 - The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.
- (iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.
2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/716/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/716/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 17 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 21 submissions representing 18 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



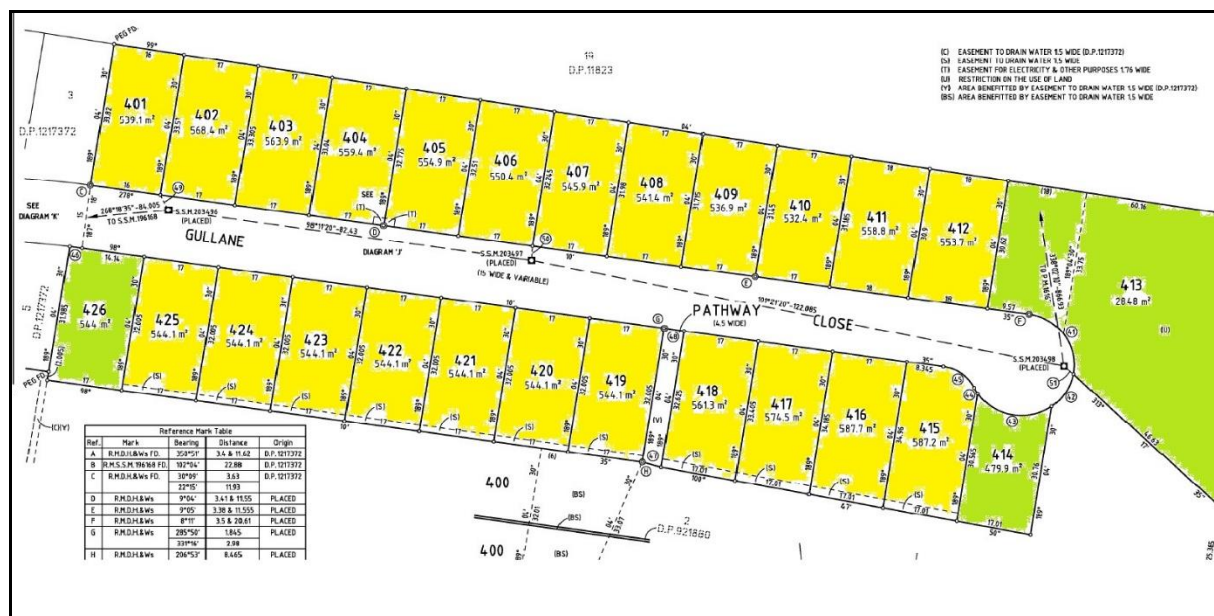
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 17 Gullane Close, Heddon Greta, and is legally described as Lot 406 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to the private open space provisions.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
7 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/716/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 6.1m from the front boundary, 1.28m from the side boundaries and 4.5m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

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- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 2m from the northwest corner to the south east. The applicant proposes a maximum of 500mm cut and a maximum of 400mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback 1.7m from both side boundaries.	Yes

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		The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 6.1m from the front property boundary to the face of the external wall.	Yes
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each</p>	Yes

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		garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.	
2.3.5 Private Open Space	1 – 2 bedrooms = 50m ² 3+ bedrooms = 70m ² Principal Area = 4m x 4m	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for Dwelling A is 63m² and Dwelling B is 62m², which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A variation of 10% for Dwelling A and 11.40% for Dwelling B in relation to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	No
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p>	No

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		<p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.5m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 8m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 500mm high on the western boundary. No front fencing has been shown on the plans.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.	No

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		<p>The landscaping plan shows a 13m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

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	drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements		
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 24 October and 7 November 2018.

Twenty one (21) submissions were received during the exhibition period representing eighteen (18) households. All of the submissions received were in objection to the proposal.

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The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>

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Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>

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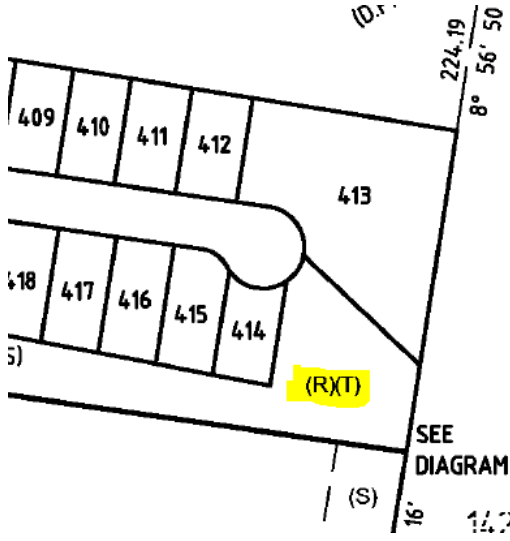
<p>Inconsistent with the context of the surrounding properties</p>	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
<p>Information submitted to Council is inaccurate - supporting documents referenced different Council</p>	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
<p>The proposed development should be considered as medium density development</p>	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>

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<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>Lack of infrastructure in the area i.e. public transport, shops and sports fields</p>	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>

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No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>

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Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

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INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape; private open space; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➞ Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/717/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

8 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/717/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 425 DP 1242225
PROPERTY ADDRESS:	8 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr DF & Mrs VL Corcoran
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/717/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 425 DP 1242225 8 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/717/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/717/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 8 Gullane Close, Heddon Greta.

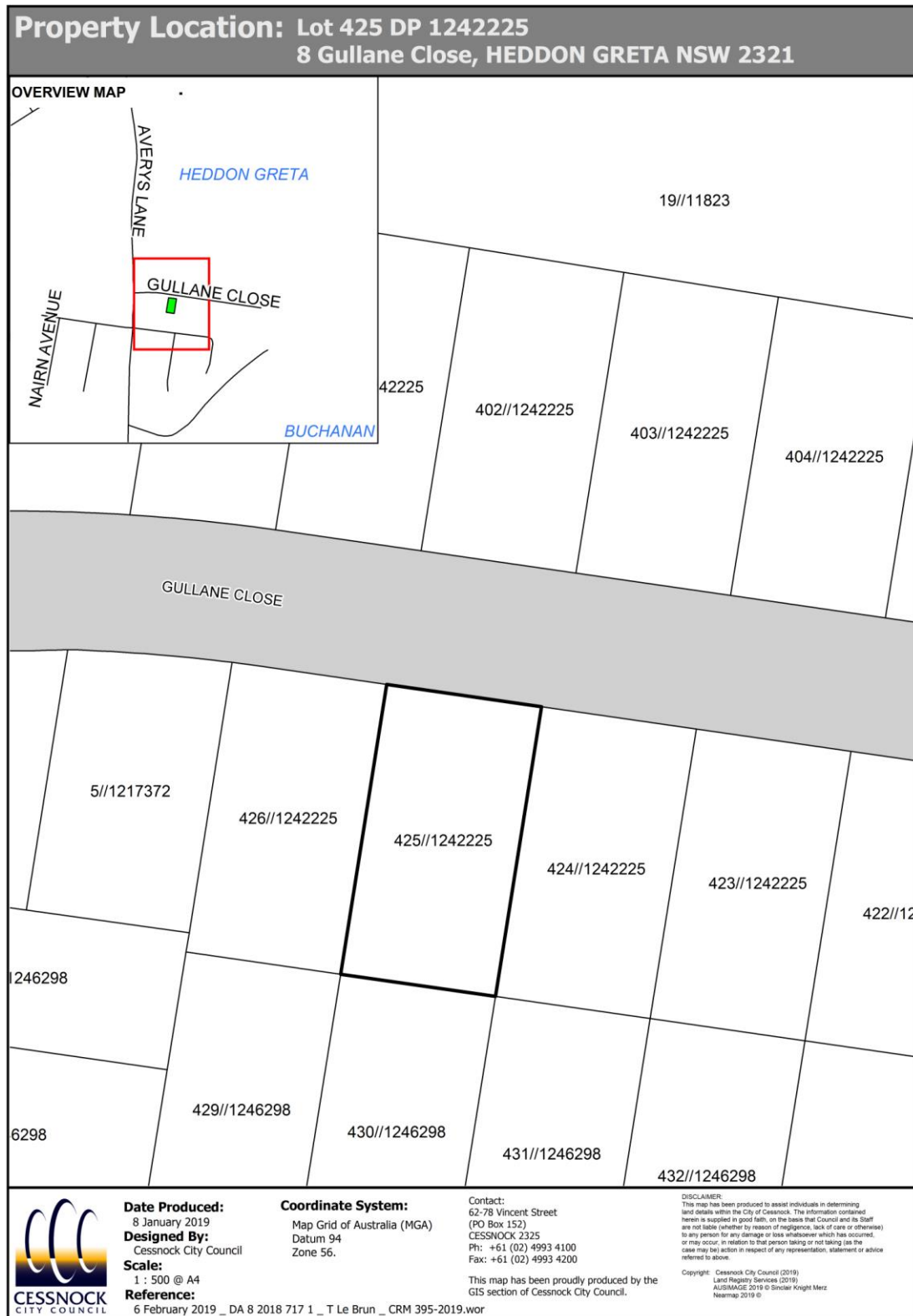
The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 13 submissions representing 12 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 8 Gullane Close, Heddon Greta, and is legally described as Lot 425 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
19 October 2018	Application placed on public exhibition.
19 October 2018	Application referred to Council's Development Engineer for assessment.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Additional information submitted by the applicant. Bushfire Assessment remains outstanding.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks.
	The applicant is requested to address these variations.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
1 November 2018	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
26 November 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/717/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- Media room / bedroom
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 7.5m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

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The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof is proposed.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

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3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

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• Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

• Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the south east corner to the northwest. The applicant proposes a maximum of 650mm cut and a maximum of 650mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback a minimum of 5.5m from the side boundaries.	Yes

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		The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.7m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No

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	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> A total of 70m² of private open space per dwelling; A minimum dimension of 3m; and A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is a minimum of 82m², which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of</p>	No

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		<p>each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive facade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.5m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 6m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 650mm high on both the eastern and western boundaries. No front fencing has been shown on the plans.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two 8m² garden beds located on either side of the driveway. This plan does not demonstrate</p>	No

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		<p>how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 19 October and 2 November 2018.

Thirteen (13) submissions were received during the exhibition period representing twelve (12) households. All of the submissions received were in objection to the proposal.

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The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>

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Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>

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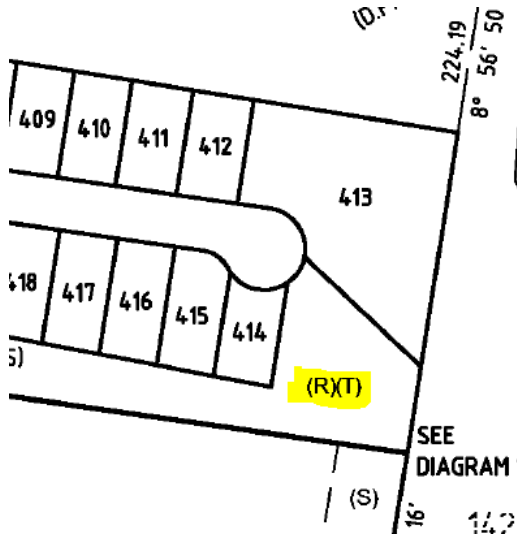
<p>Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street</p>	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
<p>Inconsistent with the context of the surrounding properties</p>	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
<p>Information submitted to Council is inaccurate - supporting documents referenced different Council</p>	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
<p>The proposed development should be considered as medium density development</p>	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>

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<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>The block sizes are too small for dual occupancies</p>	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>

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Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.</p>
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>

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Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➞ Plans

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/718/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

19 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/718/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 407 DP 1242225
PROPERTY ADDRESS:	19 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Limehouse Estates Pty Ltd
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/718/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 407 DP 1242225 19 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 1.4.1 of Chapter C.1 of the Cessnock Development Control Plan 2010, which prescribes that driveways must achieve a minimum setback from the side boundary of 1.5m.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/718/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/718/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 19 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 15 submissions representing 10 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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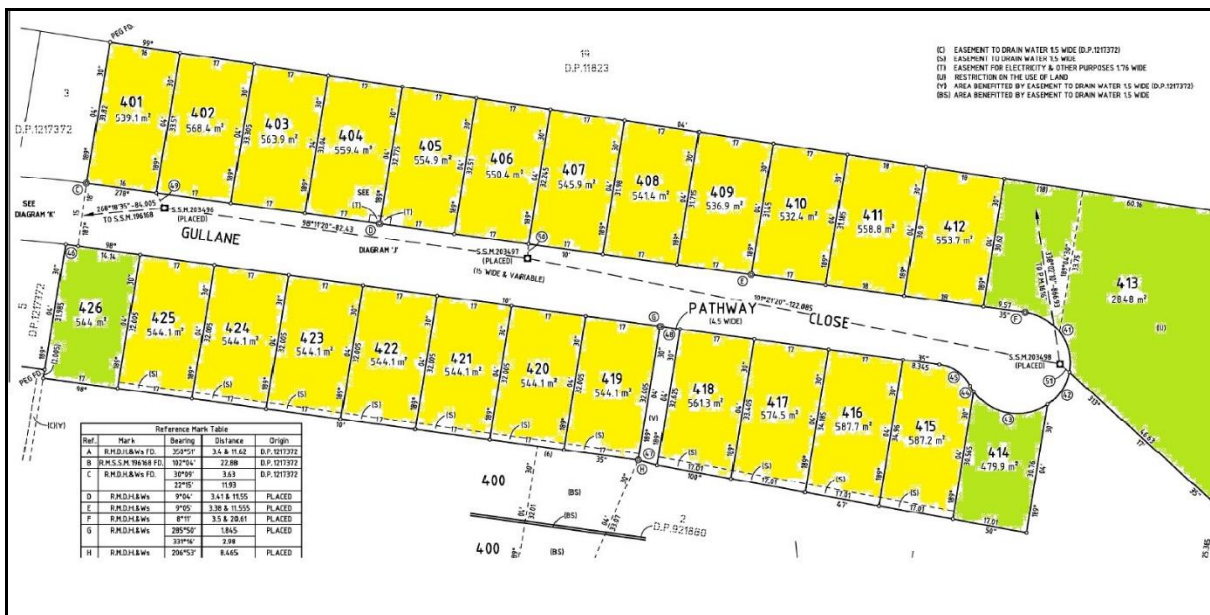
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 19 Gullane Close, Heddon Greta, and is legally described as Lot 407 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
17 October 2018	Application referred to Council's Development Engineer for assessment.
19 October 2018	Application placed on public exhibition.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Details of colours and finishes submitted by the applicant.
30 October 2018	Bushfire Assessment submitted by the applicant.
	The applicant is advised that the Bushfire Assessment is incorrect and is required to be amended.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
7 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks and private open space provisions.
8 November 2018	The applicant is requested to address the variations to the front setbacks and private open space provisions in the DCP.
9 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP and amended plans identifying the BASIX commitments submitted by the applicant.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.

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7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	<p>Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.</p>
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	<p>Correspondence issued to applicant confirming the above.</p>
18 February 2019	<p>Assessment finalised.</p>

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/718/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.6m from the front boundary, 1.28m from the side boundaries and 4.2m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

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The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

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- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 2m from the northwest corner to the south east. The applicant proposes a maximum of 500mm cut and a maximum of 500mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 1.7m (Dwelling A) and 1.2m (Dwelling B) from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	No

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Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.6m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 6.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
			Yes

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	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> A total of 70m² of private open space per dwelling; A minimum dimension of 3m; and A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 62.2m² for Dwelling A and 62.7m² for Dwelling B which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 11.2% variation is proposed for Dwelling A and 10.4% for Dwelling B to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	No
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p> 	No

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		<p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.3m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 8m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.	Yes

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		<p>The plans do not indicate any front fencing is to be constructed.</p> <p>A retaining wall is proposed on the western boundary of a maximum height of 500mm.</p>	
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows an approximate 12m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p>	Yes

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		The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.	
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

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(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 19 October and 2 November 2018.

Fifteen (15) submissions were received during the exhibition period representing ten (10) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.

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Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

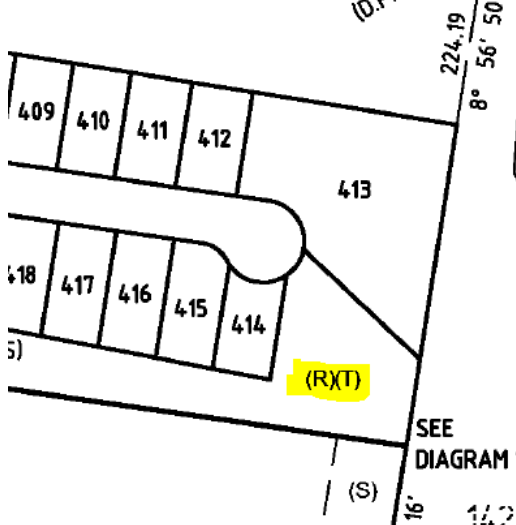
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>

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<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>

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Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.</p>
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>

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<p>Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
<p>Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
<p>The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility</p>	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

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In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

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In addition to the above, it is noted that the development proposes a variation to Chapter C.1 in respect of driveway setbacks, and variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; private open space; external appearance and landscape design.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 1.4.1 of Chapter C.1 of the Cessnock Development Control Plan 2010, which prescribes that driveways must achieve a minimum setback from the side boundary of 1.5m (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
7. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
8. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/719/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

27 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/719/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 411 DP 1242225
PROPERTY ADDRESS:	27 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr. DM & Mrs. SR Govender
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/719/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 411 DP 1242225 27 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/719/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/719/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 27 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 15 submissions representing 12 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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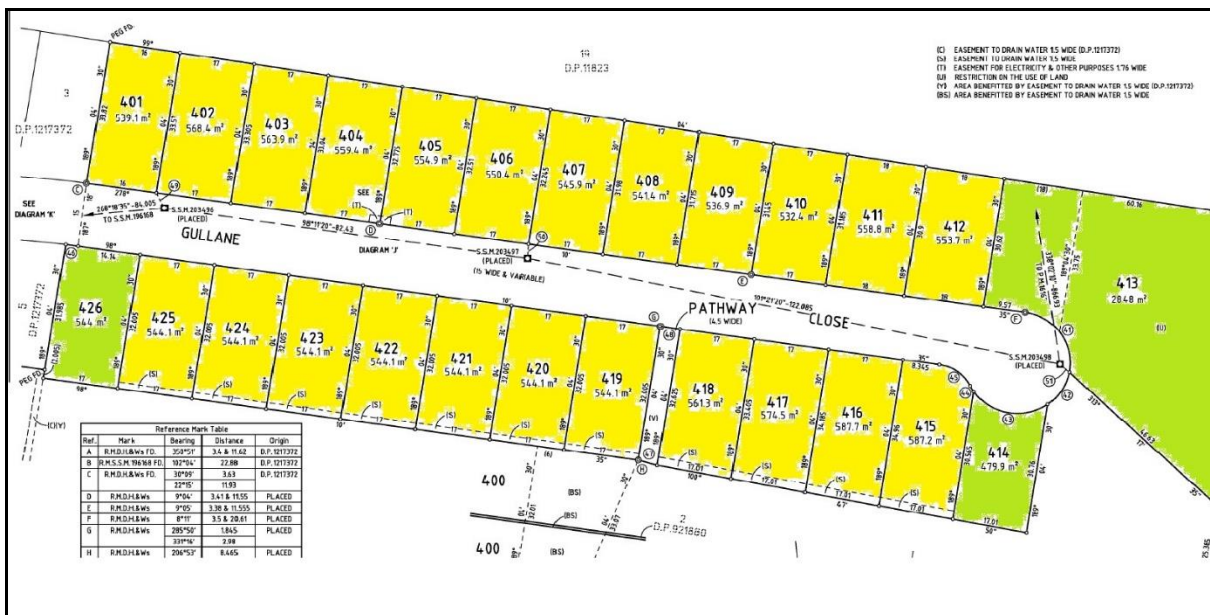
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 27 Gullane Close, Heddon Greta, and is legally described as Lot 411 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
15 October 2018	Development Application lodged with Council.
17 October 2018	Application referred to Council's Development Engineer for assessment.
19 October 2018	Application placed on public exhibition.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Details of colours and finishes submitted by the applicant.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
8 November 2018	Amended plans identifying the BASIX commitments are submitted by the applicant.
	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks and private open space provisions.
	The applicant is requested to address these variations.
	Applicant submits justification regarding the variations to the Cessnock DCP.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: <ol style="list-style-type: none"> 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>

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14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/719/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.3m from the front boundary, 1.78m from the side boundaries and 3.5m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

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(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

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A 'dual occupancy' is a type of 'residential accommodation'.

Development for the purpose of 'residential accommodation' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) *to allow earthworks of a minor nature without requiring a separate development consent.*

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As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 0.55m from the northwest corner to the south east. The applicant proposes a maximum of 400mm cut and a maximum of 275mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) *The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).*

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) *The Provisions of any Development Control Plan*

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 2.1m and 2.2m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes

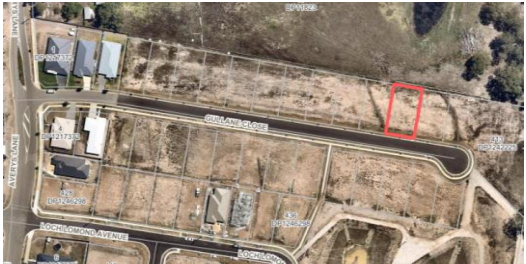
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.3m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 11.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 18m, which results in the garages taking up 26.6% of the total frontage.</p>	Yes

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<p>2.3.5 Private Open Space</p>	<p>1 – 2 bedrooms = 50m² 3+ bedrooms = 70m² Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The approximate private open space calculation for Dwelling A is 59.9m² and Dwelling B is 59.4m² which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 14.4% and 15.1% variation is proposed to the total area of private open space for each dwelling respectively which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	<p>No</p>
<p>2.4.2 External Appearance</p>	<p>New development must consider the existing scale, character and massing of development in the immediate area</p>	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic</p>	<p>No</p>

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		<p>elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive facade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.78m for the side and 6.5m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any retaining walls or front fencing to be constructed.</p>	Yes

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2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows a 13.4m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes

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13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 19 October and 2 November 2018.

Fifteen (15) submissions were received during the exhibition period representing twelve (12) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.

Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

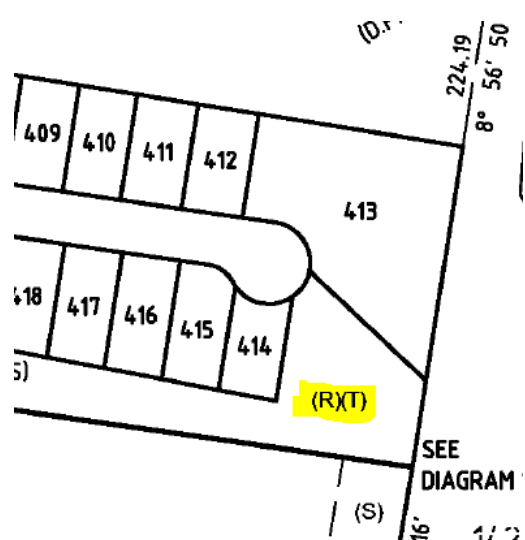
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for</p>

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	<p>stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
Problems with emergency evacuation of the street due to increased population density, width of road	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>

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The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>

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<p>Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
<p>The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility</p>	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

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SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling 16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council

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for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; private open space; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
7. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/721/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

23 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/721/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 409 DP 1242225
PROPERTY ADDRESS:	23 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr. GD & Mrs. KM Tull
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/721/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 409 DP 1242225 23 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/721/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/721/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 23 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 15 submissions representing 12 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 23 Gullane Close, Heddon Greta, and is legally described as Lot 409 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
16 October 2018	Development Application lodged with Council.
17 October 2018	Application referred to Council's Development Engineer for assessment.
19 October 2018	Application placed on public exhibition.
	Preliminary assessment undertaken.
	The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Details of colours and finishes submitted by the applicant.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks and private open space provisions.
	The applicant is requested to address these variations.
	Applicant submits justification regarding the variations to the Cessnock DCP.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: <ol style="list-style-type: none"> 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>

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14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/721/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.3m from the front boundary, 1.28m from the side boundaries and 4.4m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

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(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

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A 'dual occupancy' is a type of 'residential accommodation'.

Development for the purpose of 'residential accommodation' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

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As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.6m from the northwest corner to the south east. The applicant proposes a maximum of 500mm cut and a maximum of 400mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) *The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).*

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) *The Provisions of any Development Control Plan*

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 1.6 and 1.8m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes

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Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.3m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 11.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes

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<p>2.3.5 Private Open Space</p>	<p>1 – 2 bedrooms = 50m² 3+ bedrooms = 70m² Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The approximate private open space calculation for Dwelling A is 63.1m² and Dwelling B is 62.8m² which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 9.9% and 10.3% variation is proposed to the total area of private open space for each dwelling respectively which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	<p>No</p>
<p>2.4.2 External Appearance</p>	<p>New development must consider the existing scale, character and massing of development in the immediate area</p>	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered</p>	<p>No</p>

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		<p>to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive facade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.5m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>A retaining wall is proposed on the western boundary of a maximum height of 500mm.</p>	Yes

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2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows an approximate 13.m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes

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13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 19 October and 2 November 2018.

Fifteen (15) submissions were received during the exhibition period representing twelve (12) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.

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Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

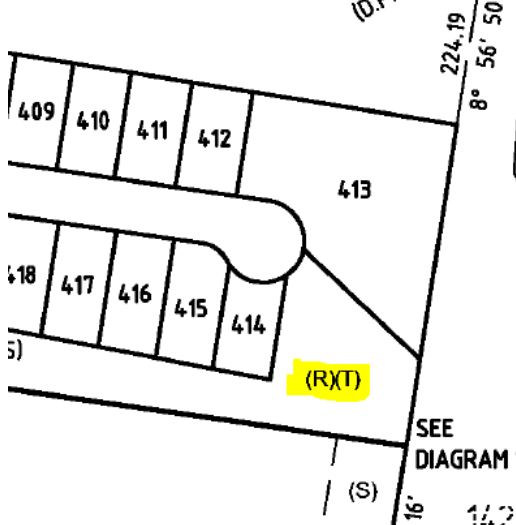
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>

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<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>

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Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.</p>
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>

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<p>Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
<p>Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
<p>The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility</p>	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

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SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council

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for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; private open space; external appearance and landscape design.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
7. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/737/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

25 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/737/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 410 DP 1242225
PROPERTY ADDRESS:	25 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Perez Estate Pty Ltd
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/737/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 410 DP 1242225 25 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/737/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/737/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 25 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 22 submissions representing 19 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

This is Page 385 of the Agenda of the Ordinary Council Meeting of the Cessnock City Council to be held on 20 March 2019

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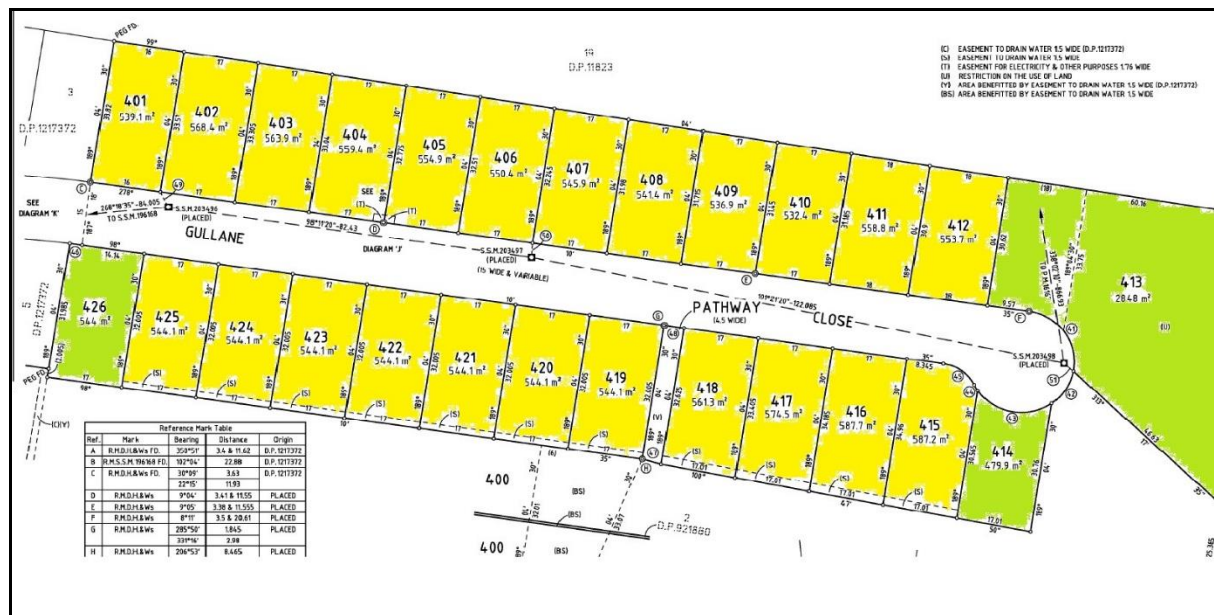


The subject site is commonly known as 25 Gullane Close, Heddon Greta, and is legally described as Lot 410 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Averys Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
16 October 2018	Development Application lodged with Council.
17 October 2018	Application referred to Council's Development Engineer for assessment.
19 October 2018	Application placed on public exhibition.
	<p>Preliminary assessment undertaken.</p> <p>The Applicant is requested to submit additional information, including:</p> <ul style="list-style-type: none"> • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
22 October 2018	Details on colours and finishes submitted by the applicant.
31 October 2018	Bushfire Assessment submitted by the applicant.
1 November 2018	A review of the amended plans determines that the BASIX commitments are not identified on the plans. Applicant is requested to further amend the plans to identify the BASIX commitments prescribed in the Certificate.
1 November 2018	<p>Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks and private open space provisions.</p> <p>The applicant is requested to address these variations.</p>
8 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
	Amended plans identifying the BASIX commitments submitted by the applicant.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none"> 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>

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14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/737/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.4m from the front boundary, 1.2m from the side boundaries and 4.2m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

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(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

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A 'dual occupancy' is a type of 'residential accommodation'.

Development for the purpose of 'residential accommodation' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) *to allow earthworks of a minor nature without requiring a separate development consent.*

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As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.3m from the northwest corner to the south east. The applicant proposes a maximum of 500mm cut and a maximum of 500mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback each 1.75m from the side boundaries. The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	The development is located in a new residential street which has minimal vegetation and is predominately vacant.	No

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		<p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.4m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 10% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from 	No

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		<p>the living area.</p> <p>The approximate private open space calculation for Dwelling A is 60.8m² and Dwelling B is 61.6m² which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 13.2% and 12% variation is proposed to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for</p>	No

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		<p>each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive facade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.2m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>A retaining wall is proposed on the western boundary of a maximum height of 500mm.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows an approximate 14m² garden bed located</p>	No

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		<p>between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 29 October and 12 November 2018.

Twenty-two (22) submissions were received during the exhibition period representing nineteen (19) households. All of the submissions received were in objection to the proposal.

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The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>

Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>

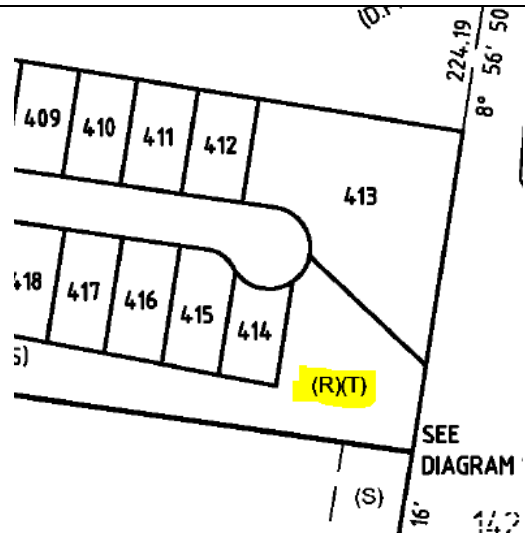
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Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>

	 <p>This reservation/restriction will provide access to the creek, should it be required.</p>
Problems with emergency evacuation of the street due to increased population density, width of road	Refer to previous discussion in this table regarding street design and access by service vehicles.
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>

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Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>

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The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.
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(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; private open space; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
7. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/738/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

20 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/738/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 419 DP 1242225
PROPERTY ADDRESS:	20 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr PJB Morris
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/738/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 419 DP 1242225 20 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/738/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/738/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 20 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 23 submissions representing 17 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

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LOCATION MAP

SEE MAP ON NEXT PAGE

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AERIAL



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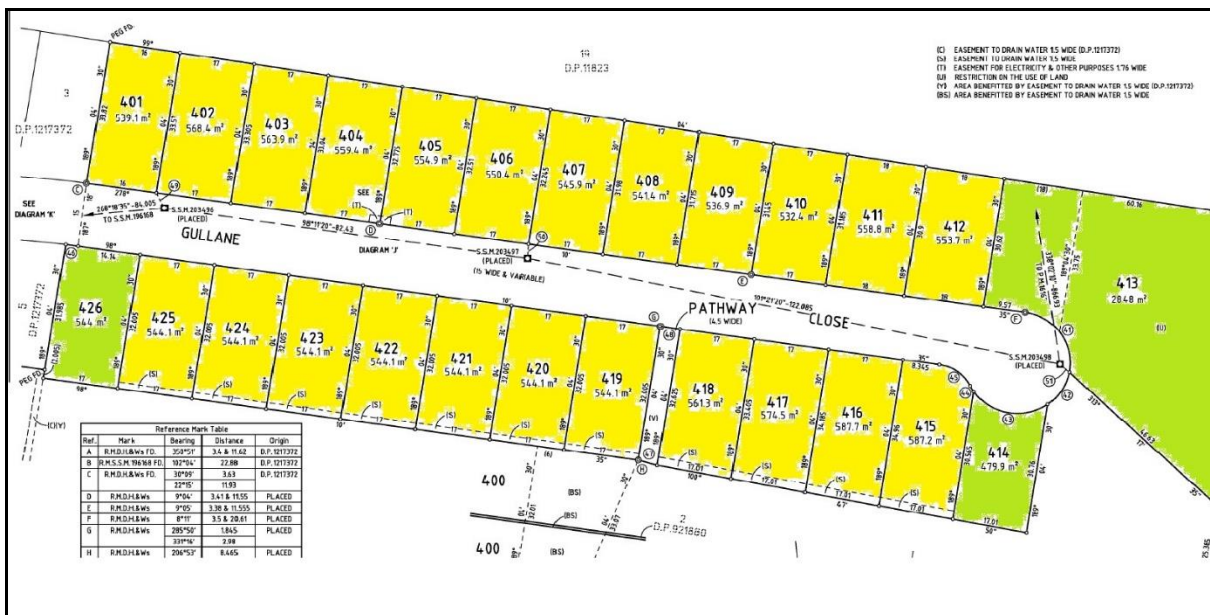
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 20 Gullane Close, Heddon Greta, and is legally described as Lot 419 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
18 October 2018	Development Application lodged with Council.
25 October 2018	Application referred to Council's Development Engineer for assessment.
29 October 2018	Application placed on public exhibition.
30 October 2019	Preliminary assessment undertaken. The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Non-compliance with front setback provisions in the DCP to be addressed, • BASIX commitments on a plan; • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
31 October 2018	Bushfire Assessment submitted by the applicant.
	Details of colours and finishes and justification for the front setback variation submitted by the applicant.
1 November 2018	The justification submitted by the applicant is reviewed, and it is identified that the correspondence refers to the wrong Local Government Area. Applicant is requested to address this.
	Justification re-submitted by the applicant, prescribing the correct Local Government Area.
8 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: <ol style="list-style-type: none"> 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.

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18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/738/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- 1 bedroom/media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 7.5m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

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(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

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A 'dual occupancy' is a type of 'residential accommodation'.

Development for the purpose of 'residential accommodation' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) *to allow earthworks of a minor nature without requiring a separate development consent.*

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As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.97m from the northwest corner to the south east. The applicant proposes a maximum of 555mm cut and a maximum of 555mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback 5.8m and 5.7m from the side boundaries. The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	The development is located in a new residential street which has minimal vegetation and is predominately vacant.	No

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		<p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.7m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21.1% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from 	Yes

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		<p>the living area.</p> <p>The approximate private open space calculation for Dwelling A is 78.9² and 76.4m² for Dwelling B which is compliant with the 70m² requirement.</p>	
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	No

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2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.5m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>Retaining walls are proposed on the eastern and western boundaries of a maximum height of 350mm and 550mm respectively.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows an estimated 9.5m² garden bed located on each side of the central driveway, totaling to 19m² area. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p>	No

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		Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 29 October and 12 November 2018.

Twenty-three (23) submissions were received during the exhibition period representing seventeen (17) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>

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Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>

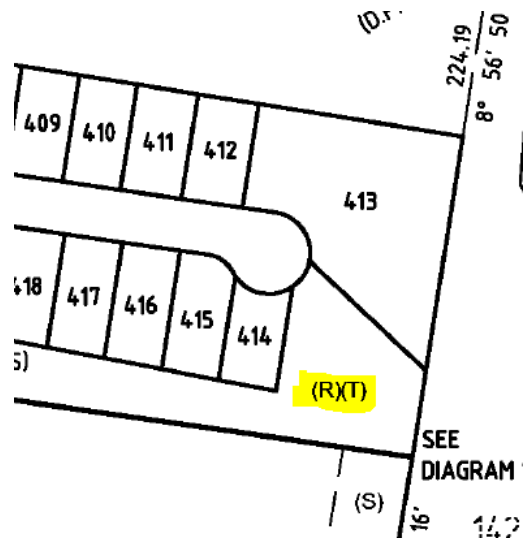
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Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>

<p>The proposed development should be considered as medium density development</p>	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p> 

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	This reservation/restriction will provide access to the creek, should it be required.
Problems with emergency evacuation of the street due to increased population density, width of road	Refer to previous discussion in this table regarding street design and access by service vehicles.
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application</p>
The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p>

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	Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council

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for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks, external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

1 ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/740/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

11 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/740/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 403 DP 1242225
PROPERTY ADDRESS:	11 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr. JK Chau
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/740/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 403 DP 1242225 11 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/740/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/740/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 11 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 24 submissions representing 19 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



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AERIAL

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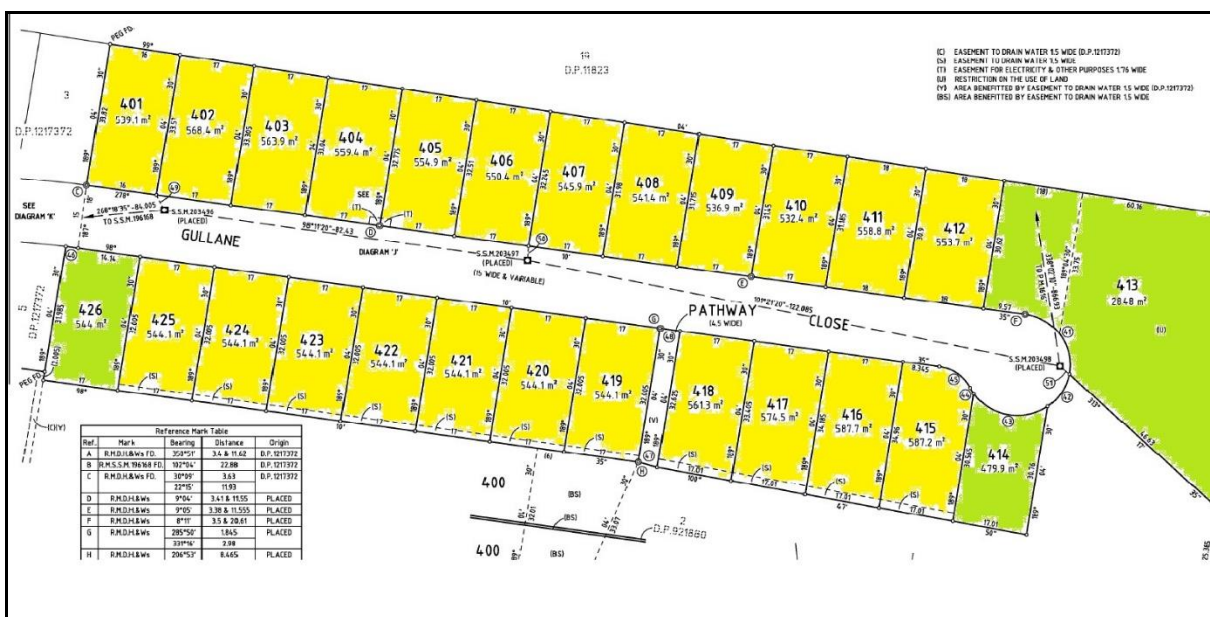
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 11 Gullane Close, Heddon Greta, and is legally described as Lot 403 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
18 October 2018	Development Application lodged with Council.
26 October 2018	Application placed on public exhibition.
30 October 2018	Preliminary assessment undertaken. The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Non-compliance with front setback provisions in the DCP to be addressed, • BASIX commitments on a plan; • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
31 October 2018	Bushfire Assessment submitted by the applicant.
	Details of colours and finishes submitted by the applicant.
6 November 2018	Application referred to Council's Development Engineer for assessment.
	Applicant submits justification regarding the variation to the Cessnock DCP.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: <ol style="list-style-type: none"> 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.

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18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/740/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.8m from the front boundary, 1.28m from the side boundaries and 6m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land

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2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

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2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

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As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.8m from the northwest corner to the south east. The applicant proposes a maximum of 500mm cut and a maximum of 500mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback 1.7m from the side boundaries. The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	The development is located in a new residential street which has minimal vegetation and is predominately vacant. As noted previously in this report, the proposed development is one of 23 dual	No

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		<p>occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.8m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 20% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. 	Yes

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		<p>The approximate private open space calculation for Dwelling A is 76.5m² and Dwelling B is 76.8m², which is compliant with the 70m² requirement.</p>	
2.4.2 External Appearance	<p>New development must consider the existing scale, character and massing of development in the immediate area</p>	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	No

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2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 9.0m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>A retaining wall of a maximum height of 500mm is proposed on the western boundary.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows an approximate 13m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p>	No

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		Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

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**(a)(iv) The provisions of the regulations**

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 26 October and 9 November 2018.

Twenty four (24) submissions were received during the exhibition period representing nineteen (19) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p>

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	Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>

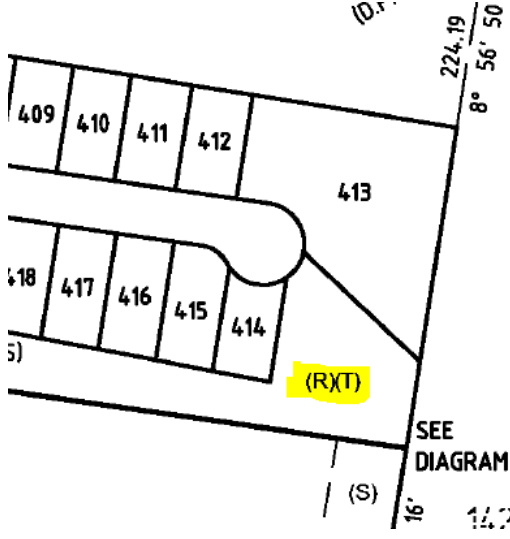
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Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>

<p>The proposed development should be considered as medium density development</p>	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p> 

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	This reservation/restriction will provide access to the creek, should it be required.
Problems with emergency evacuation of the street due to increased population density, width of road	Refer to previous discussion in this table regarding street design and access by service vehicles.
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.
Devaluation of property values	Property values are not a valid planning consideration.
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p>

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	Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.
Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility	This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

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SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council

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for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1](#) ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/741/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

29 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/741/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 412 DP 1242225
PROPERTY ADDRESS:	29 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Ms. S Odria
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/741/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 412 DP 1242225 29 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/741/1 is being referred to Council for determination for the following reasons:

1. Objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications; and
2. The application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/741/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 29 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 23 submissions representing 21 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 29 Gullane Close, Heddon Greta, and is legally described as Lot 412 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
19 October 2018	Development Application lodged with Council.
25 October 2018	Application referred to Council's Development Engineer for assessment.
29 October 2018	Application placed on public exhibition.
31 October 2018	Preliminary assessment undertaken. The Applicant is requested to submit additional information, including: <ul style="list-style-type: none"> • Non-compliance with front setback and open space provisions in the DCP to be addressed, • BASIX commitments on plans; • Amended plans; • Bushfire Assessment; • Details of colours and finishes; and • Consideration of the overall streetscape of Gullane Close due to the number of applications lodged for dual occupancy development within the direct locality.
	Bushfire Assessment submitted by the applicant.
1 November 2018	Applicant submits justification regarding the variations to the Cessnock DCP.
7 November 2018	Amended plans identifying the BASIX commitments submitted by the applicant.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: <ol style="list-style-type: none"> 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.

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18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/741/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.4m from the front boundary, 1.28m from the side boundaries and 3.6m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

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1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

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Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) *to allow earthworks of a minor nature without requiring a separate development consent.*

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As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 650mm from the northwest corner to the south east. The applicant proposes a maximum of 200mm cut and a maximum of 200mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

Clause 7.3 Flood Planning

In part, Clause 7.3 states as follows:

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) Incorporates appropriate measures to manage risk to life from flood, and*
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding'.*

The subject land is partly affected by the 1% Annual Exceedance Probability (AEP) flood event in the north east (rear) corner of the lot (totaling 20m² in area), and this portion of the site has a hazard category range of between H2 to H3.

It is confirmed that no development/building work is proposed on this portion of the site, apart from an ancillary water tank. Depth and velocity considerations associated with the H2 to H3 category will result in minimal impact on the water tank, and nil impact on surrounding properties.

Having regard to the above, the development is considered consistent with flood planning considerations prescribed in Clause 7.3(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 2.2m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Chapter 9 Development on Flood Prone Land			
Relevant Section	Development standard	Discussion	Complies
1.6 Flood Hazards and Risks	Hazard category	<p>Part of the subject land is categorised as being between a H2 and H3 category.</p> <p>No development/building work is proposed on this portion of the site, apart from an ancillary water tank. Depth and velocity considerations associated with the H2 to H3 category will result in minimal impact on the water tank, and nil impact on surrounding properties.</p>	Yes
	Hydraulic category	The subject land is not located in the floodway, flood storage or the flood fringe.	Not applicable
1.9 Flood Information Certificate	Flood information certificate is to be obtained	A flood certificate was not lodged with the application. Council has sufficient flooding information available to confirm that the building footprint is located outside the 1% AEP.	Yes
3.1 Control Matrix	A rainwater tank best fits ancillary structure type 2	<p>No development/building work is proposed on this portion of the site, apart from an ancillary water tank.</p> <p>Applicable design standards require that non-habitable floor levels are to be no lower than the 1% AEP.</p>	Yes


Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 5.4m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 10% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 18m, which results in the garages taking up 26.6% of the total frontage.</p>	Yes

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<p>2.3.5 Private Open Space</p>	<p>1 – 2 bedrooms = 50m² 3+ bedrooms = 70m² Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 59.5m², which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 15% variation is proposed to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	<p>No</p>
<p>2.4.2 External Appearance</p>	<p>New development must consider the existing scale, character and massing of development in the immediate area</p>	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p>	<p>No</p>

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		<p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive facade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 6.6m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any retaining walls or front fencing to be constructed.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes

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2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan show an approximate 14m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes

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13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 29 October and 12 November 2018.

Twenty three (23) submissions were received during the exhibition period representing twenty-one (21) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Avery's Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.

Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

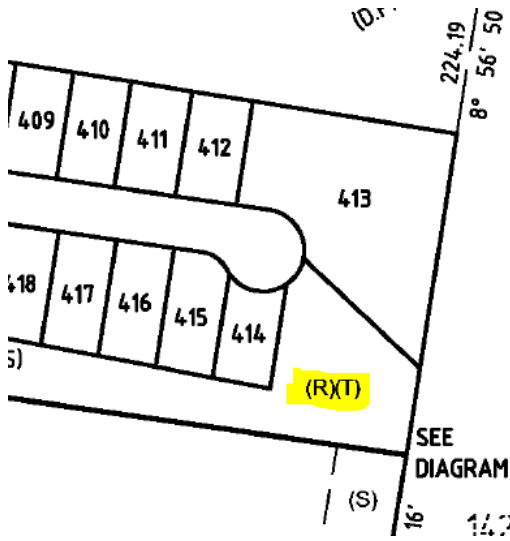
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>

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<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>

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Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.</p>
DA's inadequately address Clause 13.1.12 of Part E of Avery's Village, Heddon Greta chapter in DCP 2010, relating to:	
Potential impact on the drive-in and the screen from external lighting generated from dual occupancy	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. In this regard, the development site is located over 50m south of the drive-in boundary and over 150m south of the screen.</p> <p>Therefore, it is considered that any impact associated with lighting from the proposed dual occupancy, will be minimal.</p>

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<p>Motor vehicle lights in subdivision impacting on drive-in screen, barrier screen required to prevent impact from headlights from Gullane Close impacting on screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide any specific screening, other than standard boundary fencing.</p> <p>Therefore, it is considered that any impact associated with headlights from vehicles associated with the future occupants of the proposed dual occupancy, will be minimal.</p>
<p>Copyright infringement, screening required under cl 13.1.12(v) of Avery's Village, Heddon Greta DCP and high risk of film copying by persons outside the drive-in, an appropriate barrier is required on each lot to disrupt clear views of the drive-in and also a screen is required in the "park" section adjacent to the drive-in screen</p>	<p>As outlined above, the location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>Taking into consideration both the pattern of subdivision approved, and the distance of the site from the drive-in, it is not considered necessary to provide barrier screening on each lot, other than standard boundary fencing.</p> <p>Therefore, it is considered that any copyright infringement opportunities, will be minimal.</p>
<p>The developer and sales agents must disclose in writing to new landowners of new lots to be created that light and sound from the drive-in will emanate from the drive-in facility</p>	<p>This request is acknowledged, however, Council has no authority to require the developer or sales agents to disclose the potential amenity issues arising from the operation of the drive-in.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council

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for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; private open space; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1](#) ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
7. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/846/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

16 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/846/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 421 DP 1242225
PROPERTY ADDRESS:	16 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr. SC & Mrs. LT Wakley
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/846/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 421 DP 1242225 16 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/846/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/846/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 16 Gullane Close, Heddon Greta.

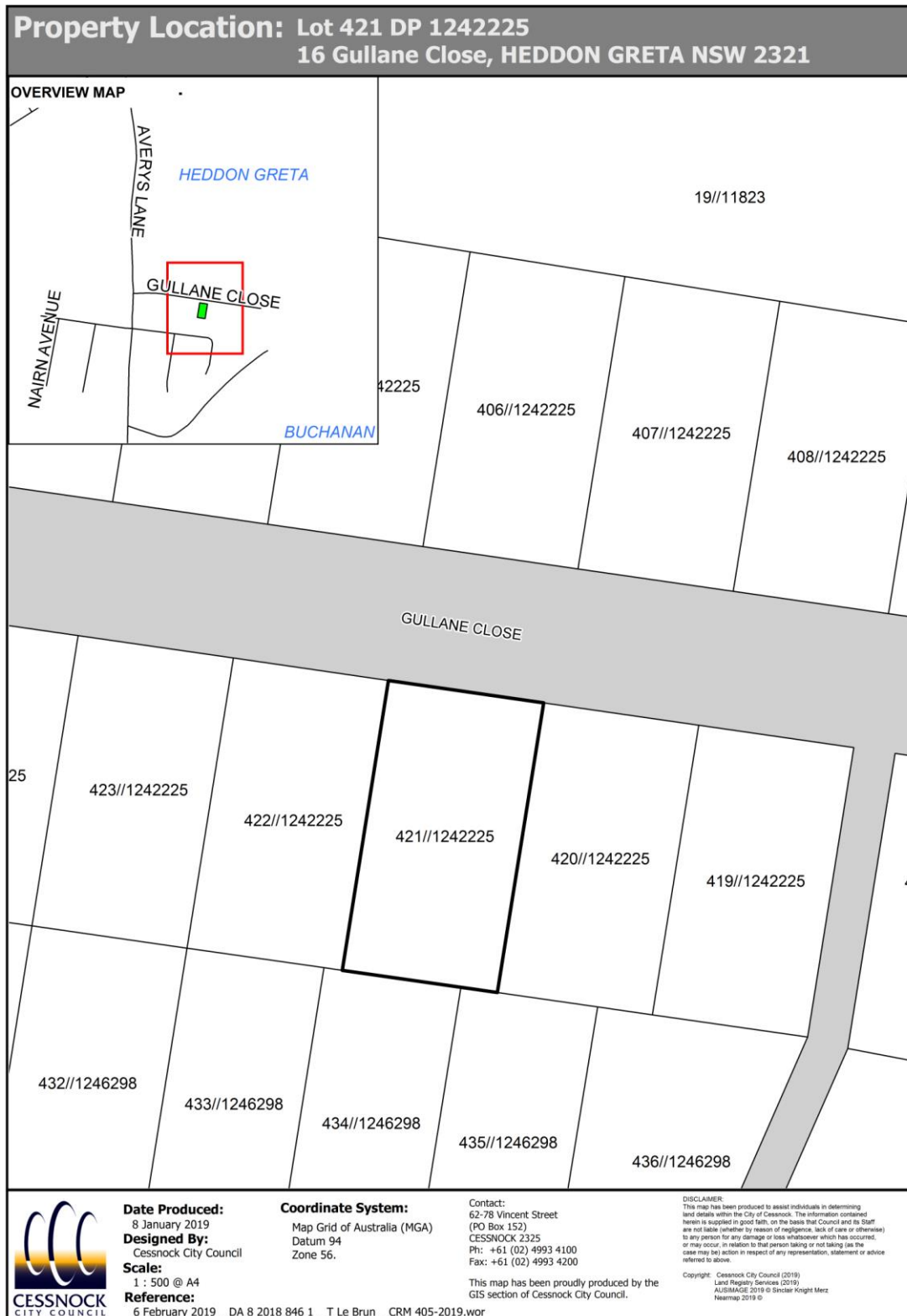
The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 2 submissions representing 2 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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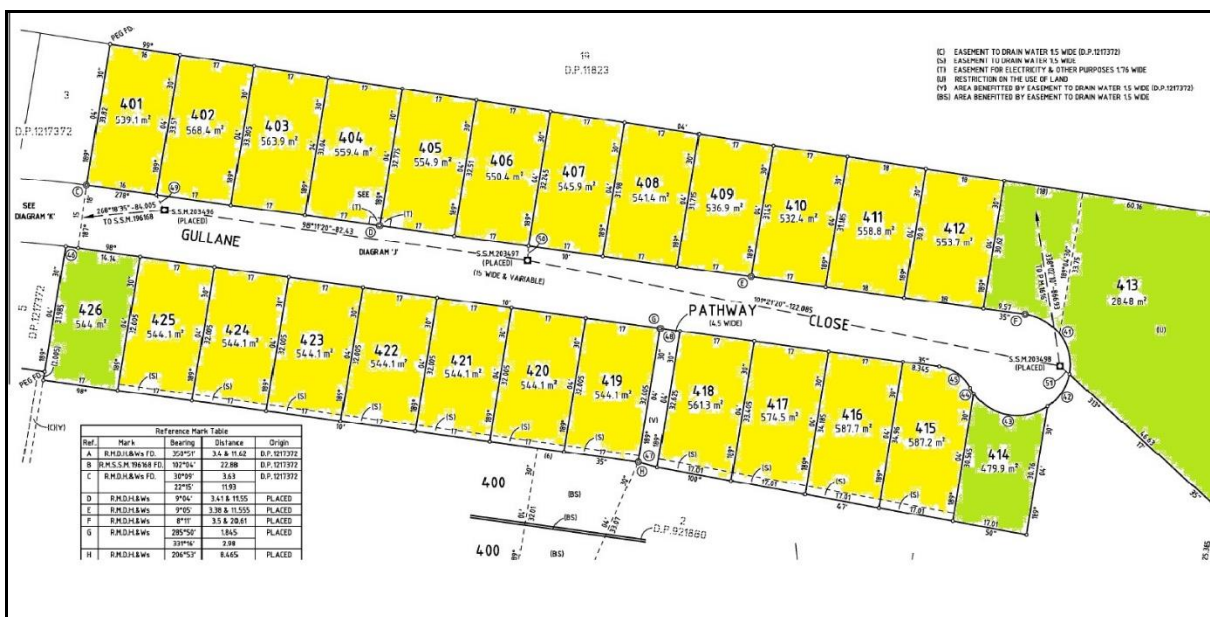
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 16 Gullane Close, Heddon Greta, and is legally described as Lot 421 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
19 October 2018	Development Application lodged with Council.
21 November 2018	Application referred to Council's Development Engineer for assessment.
	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setback provision, and it is noted that the applicant has submitted justification for a variation to the provision.
23 November 2018	Application placed on public exhibition.
19 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: <ol style="list-style-type: none"> 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications. The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> , Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/846/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- 1 bedroom/media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 7.4m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

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Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

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It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.48m from the north west to the south east (rear) corner. The applicant proposes a maximum of 700mm cut and a maximum of 700mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

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(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 5.8m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable</p>	No

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		for a new residential release area. Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.	
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.7m from the front property boundary to the face of the external wall. In this regard a variation of 21.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.	No
	Parking and garages do not dominate the street	<i>Garage width</i> The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.	Yes
2.3.5 Private Open Space	1 – 2 bedrooms = 50m ² 3+ bedrooms = 70m ² Principal Area = 4m x 4m	Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide: <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. The private open space calculation for each dwelling is approximately 78.5m ² for Dwelling A and 77.2m ² for Dwelling B which is compliant with the 70m ² requirement.	Yes

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<p>2.4.2 External Appearance</p>	<p>New development must consider the existing scale, character and massing of development in the immediate area</p>	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	<p>No</p>
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2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.4m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>Retaining walls of a maximum height of 700mm are proposed on the eastern and western boundaries.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows an approximate 9m² sized garden bed located each side of the driveway, totaling to an estimated 18m². This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p>	No

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		Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 23 November and 7 December 2018.

Two (2) submissions were received during the exhibition period representing two (2) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>

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Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>

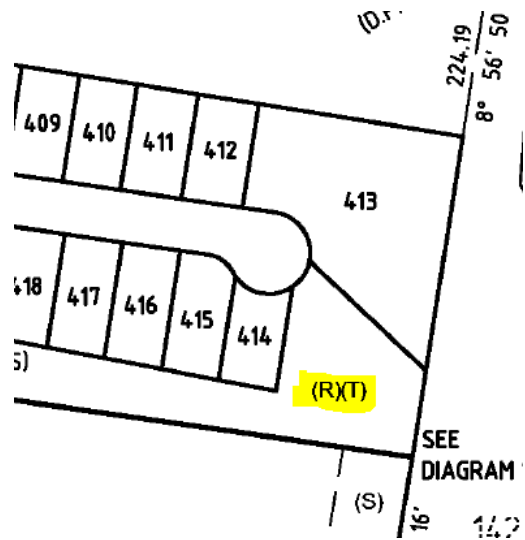
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Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>

<p>The proposed development should be considered as medium density development</p>	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p> 

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	This reservation/restriction will provide access to the creek, should it be required.
Problems with emergency evacuation of the street due to increased population density, width of road	Refer to previous discussion in this table regarding street design and access by service vehicles.
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	Property values are not a valid planning consideration.
Bushfire Assessment report	The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an

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attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1](#) Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/847/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

10 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/847/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 424 DP 1242225
PROPERTY ADDRESS:	10 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr. HB Khoo & Ms. PC Koh
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/847/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 424 DP 1242225 10 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/847/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/847/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 10 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 2 submissions representing 2 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 10 Gullane Close, Heddon Greta, and is legally described as Lot 424 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
19 November 2018	Development Application lodged with Council.
21 November 2018	Application referred to Council's Development Engineer for assessment.
	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setback provision, and it is noted that the applicant has submitted justification for a variation to the provision.
23 November 2018	Application placed on public exhibition.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications. The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> , Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/847/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

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Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- 1 bedroom/ media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 7.5m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

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On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

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2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.6 from the northwest corner to the south east. The applicant proposes a maximum of 525mm cut and a maximum of 525mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

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Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 5.8m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will	No

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		<p>be setback 4.7m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 78.5m² for Dwelling A and 77.3m² for Dwelling B, which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p> 	No

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		<p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.5m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.	Yes

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		<p>The plans do not indicate any front fencing is to be constructed.</p> <p>Retaining walls are proposed on the eastern boundary of a maximum height of 845mm and a maximum height of 725mm is proposed on the western boundary.</p>	
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows a 9m² sized garden bed located each side of the central driveway, totaling to 18m². This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment</p>	Yes

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		under Section 79BA. The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.	
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

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**(c) The suitability of the site for the development**

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 23 November and 7 December 2018.

Two (2) submissions were received during the exhibition period representing two (2) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.

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<p>Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street</p>	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
<p>Increased number of vehicles parking on the street due to limited/insufficient parking on site</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
<p>Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street</p>	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
<p>Services vehicles will have trouble accessing the street</p>	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
<p>Where will the garbage bins be put if vehicles are parked on the street</p>	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
<p>Increase in noise due to traffic and increased density</p>	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

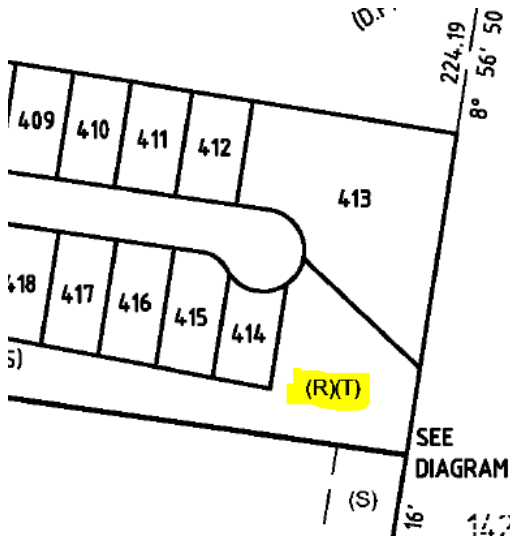
Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>

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<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>

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Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

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SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council

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for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1](#) Plans

.

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/848/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

28 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/848/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 415 DP 1242225
PROPERTY ADDRESS:	28 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Hyper Electrical Pty Ltd
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/848/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 415 DP 1242225 28 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2018/848/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/848/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 28 Gullane Close, Heddon Greta.

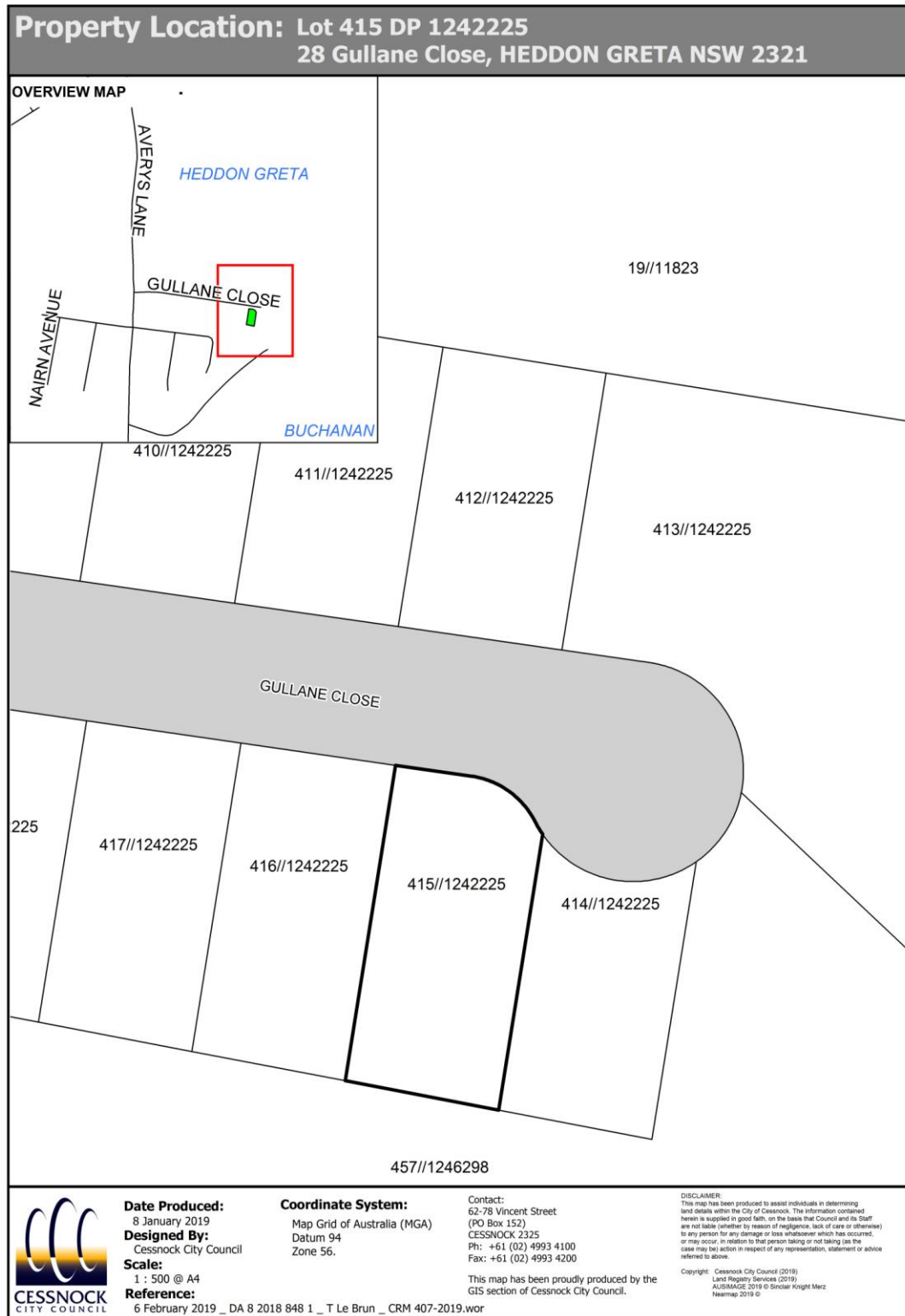
The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 2 submissions representing 2 households, were received. All submissions were in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 28 Gullane Close, Heddon Greta, and is legally described as Lot 415 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
19 November 2018	Development Application lodged with Council.
21 November 2018	Application referred to Council's Development Engineer for assessment.
	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setback provision, and it is noted that the applicant has submitted justification for a variation to the provision.
23 November 2018	Application placed on public exhibition.
3 December 2018	The applicant is advised of the main issues/concerns raised in the submissions.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications. The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> , Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/848/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

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Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- Dwelling A - 3 bedrooms and 1 bedroom/media room;
- Dwelling B – 3 bedrooms and a media room;
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.8m for Dwelling A and 5m for Dwelling B from the front boundary, 1.28m from the side boundaries and a minimum 9.5m for Dwelling A and a minimum 9.8m for Dwelling B (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

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It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 830mm from the northwest corner to the south east. The applicant proposes a maximum of 300mm cut and a maximum of 300mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

Clause 7.3 Flood Planning

In part, Clause 7.3 states as follows:

- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
 - (a) is compatible with the flood hazard of the land, and*
 - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

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- (c) Incorporates appropriate measures to manage risk to life from flood, and
 (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
 (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding'.

The subject land is partly affected by the 1% Annual Exceedance Probability (AEP) flood event in the south east (rear) corner of the lot (totaling 3.9m² in area), and this portion of the site has a hazard category range of between H2 to H3.

It is confirmed that no development/building work is proposed on this portion of the site.

Having regard to the above, the development is considered consistent with flood planning considerations prescribed in Clause 7.3(3).

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	The proposed driveways are shown on the plans as being setback 5.7m from the side boundaries. The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes

Chapter 9 Development on Flood Prone Land			
Relevant Section	Development standard	Discussion	Complies
1.6 Flood Hazards and Risks	Hazard category	Part of the subject land is categorised as being between a H2 and H3 category. No development/building work is proposed on this portion of the site.	Yes
	Hydraulic category	The subject land is not located in the floodway, flood storage or the flood fringe.	Not applicable
1.9 Flood Information Certificate	Flood information certificate is to be obtained	A flood certificate was not lodged with the application. Council has sufficient flooding information available to confirm that the building footprint is located outside the 1% AEP.	Yes
3.1 Control Matrix	Development categories and land use types are listed in a control matrix.	No development/building work is proposed on flood or hazard affected land.	Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No

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2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided.</p> <p>The submitted plans show the building will be setback a minimum of 5.8m for Dwelling A and 5m for Dwelling B from the front property boundary to the face of the external wall.</p> <p>In this regard, plans indicate a variation ranging from 3.6% (Dwelling A) to 16.7% (Dwelling B).</p> <p>It is noted that the site is located on the edge of a cul-de-sac, and the part curved frontage has influenced the design of the proposal.</p> <p>In this case, the variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Dwelling A within the dual occupancy will contain 3 bedrooms and 1 bedroom/media room and Dwelling B proposes 3 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 95.5m² for Dwelling A and 98.4m² for Dwelling B, which is compliant with the 70m² requirement.</p>	Yes

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<p>2.4.2 External Appearance</p>	<p>New development must consider the existing scale, character and massing of development in the immediate area</p>	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>  <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	<p>No</p>
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2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side, and 9.5m for Dwelling A and 9.8m for Dwelling B to the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 6m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>A retaining wall is proposed on the western boundary of a maximum height of 300mm.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 3 or 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows a 8.6m² garden bed located to the west (Dwelling A) and a 11.6m² garden bed located to the east (Dwelling B) of the central driveway. An approximate total 20m² landscaped area is proposed.</p>	No

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		<p>This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes

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13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 23 November and 7 December 2018.

Two (2) submissions were received during the exhibition period representing two (2) households. All of the submissions received were in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.

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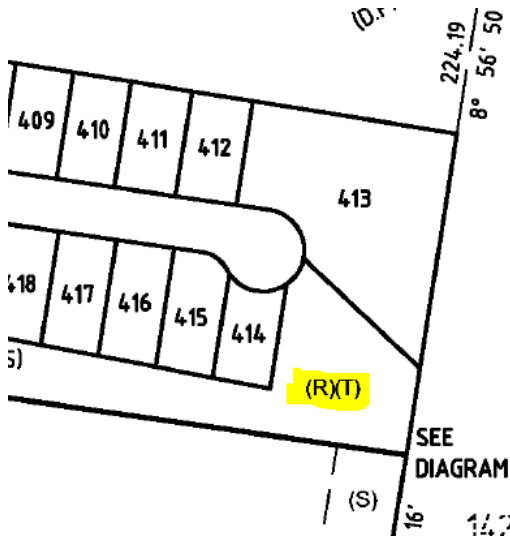
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Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 3 to 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

Safety for children playing	<p>The objector did not indicate whether their concern relates to children playing on the street or on private property.</p> <p>Each proposed dwelling provides for an area of private open space which would enable children to play in a fenced environment.</p> <p>In respect of children playing on the street, it is considered that this development is consistent with other forms of residential development, and the risks would be similar.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>

<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 3 to 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>SEE DIAGRAM</p> <p>(S)</p> <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>

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Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
The block sizes are too small for dual occupancies	<p>No minimum lot size is prescribed for the erection of a dual occupancy development under the provisions of Cessnock LEP 2011.</p>
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
No notification received	<p>The application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock Development Control Plan 2010.</p> <p>In addition to notification letters being sent to directly adjoining property owners, the application was available for viewing on Council's DA Tracker. The DA Tracker allows any member of the public to view applications and make submissions. Therefore, it is considered that the application has been adequately notified.</p>
Devaluation of property values	<p>Property values are not a valid planning consideration.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council

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for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1](#) ➡ Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/887/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

14 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/887/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 422 DP 1242225
PROPERTY ADDRESS:	14 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Mr AO & Mrs CA Esterado
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/887/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 422 DP 1242225 14 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/887/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/887/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 14 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 1 submission representing 1 household, was received. This submission was in objection to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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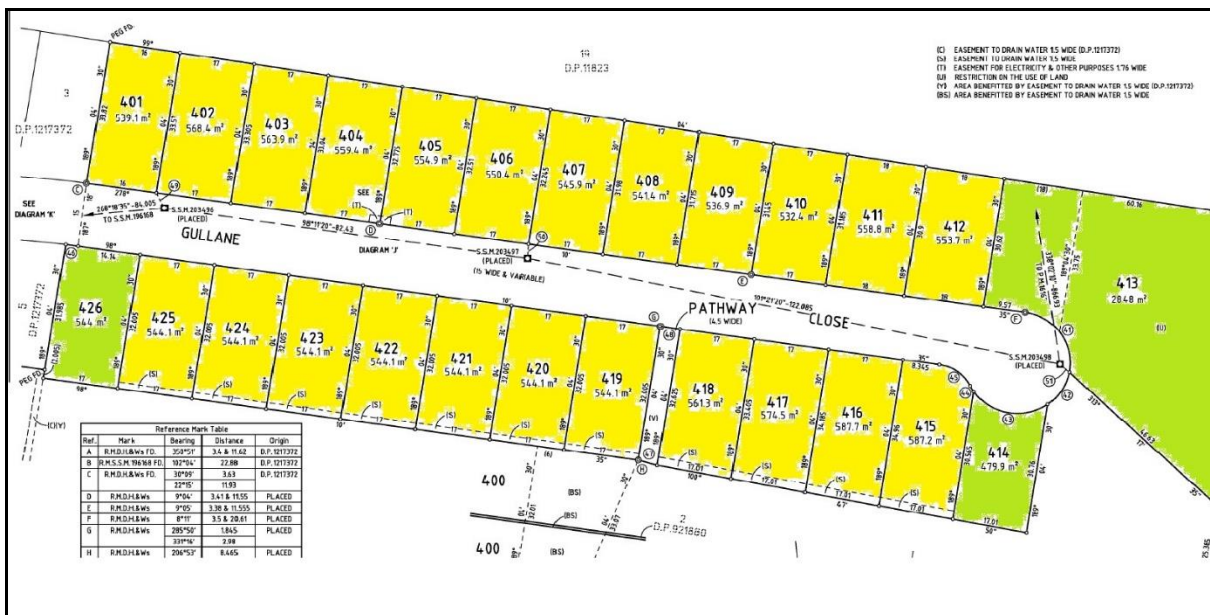
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 14 Gullane Close, Heddon Greta, and is legally described as Lot 422 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
30 November 2018	Development Application lodged with Council.
6 December 2018	Application placed on public exhibition.
6 December 2018	Application referred to Council's Development Engineer for assessment.
7 December 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks provisions. The applicant is requested to address these variations.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications. The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> , Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/887/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

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Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- media room / bedroom
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 7.5m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof is proposed.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

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It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1m from the south east corner to the northwest. The applicant proposes a maximum of 575m cut and a maximum of 525mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

- (a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).***

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.


Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 5.5m from both side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and scale, will not result in high quality urban design which is one of the main aims of the DCP.</p>	No

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2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.7m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m² 3+ bedrooms = 70m² Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is a minimum of 76m², which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p> 	No

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		<p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.7m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.28m for the side and 7.5m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 6m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans indicate a retaining wall of 975mm high on the eastern boundary and 575mm high on the western boundary. No front fencing has been shown on the plans.</p>	Yes

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2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows two 8m² garden beds located on either side of the driveway. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No
Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes

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13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to “disrupt” clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes
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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 12 December 2018 and 17 January 2019.

One submission was received during the exhibition period representing one household. The submission was in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>

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Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>

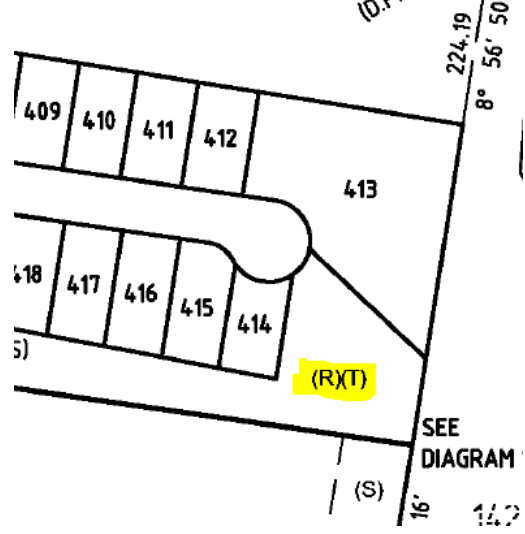
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Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>

	 <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
<p>Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade</p>	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
<p>Bushfire Assessment report</p>	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

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SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

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It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are now supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1](#) Plans

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REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/888/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

9 LOCH LOMOND AVENUE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/888/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 432 DP 1246298
PROPERTY ADDRESS:	9 Loch Lomond Avenue, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Avery's Rise Investor Pty Ltd & Hunter Land Holdings Pty Ltd
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/888/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 432 DP 1246298 9 Loch Lomond Avenue Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010.
 - The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.

- The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided for each dwelling containing 3 or more bedrooms.
 - The development is non-compliant with the 'design elements' provisions relating to landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
 - For the reasons outlined above, the development is contrary to the public interest.
- (iii) In considering community views, the following is relevant:
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.
- (iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.
2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/888/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/888/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 9 Loch Lomond Avenue, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and one submission representing one household was received. The submission was in objection to the proposal. The issues and concerns raised in the submission are addressed in the following report.

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Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential zone, it is considered that the application does not satisfactorily address the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock Development Control Plan 2010, with respect to private open space and landscape design criteria.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 9 Loch Lomond Avenue, Heddon Greta, and is legally described as Lot 432 Deposited Plan 1246298.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 29 residential allotments located within Loch Lomond Avenue and St Andrews Close. This area is located in the urban release area known as Averys Rise.

Of the 29 residential lots within Loch Lomond Avenue and St Andrews Close, Council's records indicate that 17 new dwellings have been approved, 9 of which are located in Loch Lomond Avenue.

HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
30 October 2018	Development Application lodged with Council.
6 December 2018	Application placed on public exhibition.
6 December 2018	Application referred to Council's Development Engineer for assessment.
7 November 2018	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setbacks and private open space provisions.
7 February 2019	<p>Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options:</p> <ol style="list-style-type: none">1. Withdraw the development application;or2. Advise that the application be progressed in its current form. <p>Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.</p>
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans are not formally accepted by Council.

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18 February 2019	<p>A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications.</p> <p>The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>, Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.</p>
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/888/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 4 bedrooms
- a media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 5.4m from the front boundary, 1.28m from the side boundaries and 4.9m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Loch Lomond Avenue.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered. A corrugated metal roof is proposed, with the incorporation of vented skylights.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

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(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Loch Lomond Avenue (Council Reference DA No. 2015/467).

Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

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A 'dual occupancy' is a type of 'residential accommodation'.

Development for the purpose of 'residential accommodation' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is consistent with this objective of the R2 Low Density Residential zone as the directly locality consists predominantly of new dwellings.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) *to allow earthworks of a minor nature without requiring a separate development consent.*

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As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.5m from the northwest corner to the south east. The applicant proposes a maximum of 400mm cut and a maximum of 400mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

(a)(ii) *The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).*

There are no Draft Environmental Planning Instruments that are relevant to the application.

(a)(iii) *The Provisions of any Development Control Plan*

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 1.6m from both side boundaries.</p> <p>The proposed access to the site will be off Loch Lomond Avenue. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes

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Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a residential street which has minimal vegetation and contains predominately new dwellings.</p> <p>The properties that directly adjoin the subject site have valid approvals permitting the construction of single-storey residential dwellings.</p> <p>It is considered that the proposed dual occupancy will not unreasonably impact on the density of the residential environment. Notwithstanding, the design of the proposed development incorporates mirror-reverse components, and will not positively contribute to the streetscape.</p>	No
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Loch Lomond Avenue) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided.</p> <p>The submitted plans show the building will be setback 5.4m from the front property boundary to the face of the external wall. Therefore, a variation of 10% is proposed.</p> <p>From a review of the approved dwellings on the directly adjoining properties, it has been determined that the front setback for 7 Loch Lomond Avenue is 5m and 11 Loch Lomond Avenue is 6m. It is noted that the 6m setback requirement under this section of the DCP is not applicable to new dwellings.</p> <p>The variation to the front setback is not supported as it is considered that the encroachment exacerbates the mirror-reverse design of the proposed dual occupancy.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes

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2.3.5 Private Open Space	1 – 2 bedrooms = 50m ² 3+ bedrooms = 70m ² Principal Area = 4m x 4m	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 64.2m², which does not meet the 70m² requirement.</p> <p>Both private open space areas contain a 4m x 4m area which is directly accessible from the living area.</p> <p>A 10% variation is proposed to the total area of private open space which is considered unacceptable as the development will not achieve the overall aims and objectives of the CDCP 2010.</p>	No
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Of the 29 residential lots within Loch Lomond Avenue and St Andrews Close, Council's records indicate that 17 new dwellings have been approved, 9 of which are located in Loch Lomond Avenue.</p> <p>The approved dwellings will be located on 3, 7, 11, 13, 17, 16, 18, 20 and 22 Loch Lomond Avenue. In this instance, dwellings are approved on the lots directly adjoining the subject site.</p> <p>Due to the predominantly low-density scale of development surrounding the site, it is considered that the proposed dual occupancy will not unreasonably impact on the density of the residential environment. Notwithstanding, the design of the proposed development incorporates mirror-reverse components, and will not positively contribute to the streetscape.</p>	No
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 3m.	Yes

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2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.8m for the rear.</p>	Yes
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high colourbond fence constructed along the property boundary and internally. The fence will finish over 7m from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any retaining walls or front fencing to be constructed.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows a 12.5m² garden bed located between the two driveways. This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No

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Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Loch Lomond Avenue, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Loch Lomond Avenue was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Loch Lomond Avenue.</p> <p>It is noted that the subject site does not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

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(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed development is likely to have an impact on the built environment.

(c) The suitability of the site for the development

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted landuse in the R2 Low Density Residential zone.

Due to the predominantly low-density scale of development surrounding the site, it is considered that the proposed dual occupancy will not unreasonably impact on the density of the residential environment. Notwithstanding, the design of the proposed development incorporates mirror-reverse components, and will not positively contribute to the streetscape.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 12 December 2018 and 17 January 2019.

One submission was received during the exhibition period representing one household. The submission received was in objection to the proposal.

The following discussion addresses the issues and concerns raised in the submissions:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.
The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1246298 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites.</p> <p>In this case, the applicant is not proposing any dual occupancies on corner lots.</p>

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Increase in traffic in Loch Lomond Avenue and traffic congestion	<p>A review of Council's records has identified that, of the 29 residential lots within Loch Lomond Avenue and St Andrews Close, 17 new dwellings have been approved, 9 of which are located in Loch Lomond Avenue.</p> <p>It is considered that the construction of one dual occupancy will not significantly increase traffic in Loch Lomond Avenue.</p> <p>Council's Development Engineers have reviewed the application have not raised any objection to the development with regard to traffic congestion.</p>
Concern that certain vehicles (ie 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Loch Lomond Avenue is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Loch Lomond Avenue was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Loch Lomond Avenue was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>
Increase in noise due to traffic and increased density	<p>Loch Lomond Avenue is a cul-de-sac street. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>

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Loss of neighbourhood amenity	The location of the development is within a recent land release and the surrounding properties are starting to be developed. The character and the amenity of the area is expected to be that of single residential dwellings.
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>A review of Council's records has identified that, of the 29 residential lots within Loch Lomond Avenue and St Andrews Close, 17 new dwellings have been approved, 9 of which are located in Loch Lomond Avenue.</p> <p>It is considered that the construction of one dual occupancy will not significantly increase traffic in Loch Lomond Avenue.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	The supporting documentation lodged with Council referred to the correct Council/LGA. In this regard, this concern has been addressed.
The proposed development should be considered as medium density development	<p>This concern has been raised in conjunction with the proposed 23 dual occupancy applications lodged for Gullane Close.</p> <p>In this instance, the application is for one dual occupancy in Loch Lomond Avenue, which is not considered to be defined as medium density development.</p> <p>Further, the subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p>
Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>

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No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services	<p>This concern relates to the land at the end of Gullane Close. In this regard, the issue is not relevant to this application.</p>
Problems with emergency evacuation of the street due to increased population density, width of road	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>
Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Loch Lomond Avenue. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of LOW.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

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SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16,825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent.

It is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to front setbacks, private open space and landscape design.

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Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential zone, it is considered that the application does not satisfactorily address the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock Development Control Plan 2010, with respect to front setbacks, private open space and landscape design criteria.

It is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1⇒](#) Plans

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REASONS FOR REFUSAL

1. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
2. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
3. The development is non-compliant with Clause 2.3.5 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum of 70m² of private open space is to be provided to each dwelling containing 3 or more bedrooms (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with the 'design elements' provisions relating to landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
5. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2018/941/1
PROPOSING CONSTRUCTION OF A SINGLE-STOREY
ATTACHED DUAL OCCUPANCY AND STRATA TITLE
SUBDIVISION THEREOF*

18 GULLANE CLOSE, HEDDON GRETA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2018/941/1
PROPOSAL:	Construction of a single-storey attached dual occupancy and strata subdivision thereof
PROPERTY DESCRIPTION:	Lot 420 DP 1242225
PROPERTY ADDRESS:	18 Gullane Close, Heddon Greta
ZONE:	R2 Low Density Residential
OWNER:	Messrs. J & BB Sisouk
APPLICANT:	Tattersall Lander Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2018/941/1 proposing construction of an attached single-storey dual occupancy and strata subdivision thereof, at Lot 420 DP 1242225 18 Gullane Close Heddon Greta, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is 'to provide for the housing needs of the community within a low density residential environment'. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

- Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape.
- The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity.
- The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided.
- The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010.
- For the reasons outlined above, the development is contrary to the public interest.

(iii) In considering community views, the following is relevant:

- The proposed development is inconsistent with the low density residential intent of the locality, as prescribed within Cessnock Local Environmental Plan 2011.
- The proposal would result in a loss of neighbourhood amenity as the proposed dual occupancy does not reflect a form of high quality urban design.
- The proposal is non-compliant with the requirements of Chapter D.2 of the Cessnock Development Control Plan 2010.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2018/941/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2018/941/1 seeking approval for the construction of an attached single-storey dual occupancy and strata subdivision thereof, at 18 Gullane Close, Heddon Greta.

The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 1 submission representing 1 household, was received. The submission was in objection to the proposal. The issues and concerns raised in the submission are addressed in the following report.

Whilst it is acknowledged that the proposed development is permissible within the R2 Low Density Residential Zone, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment, which is contrary to the objective of the R2 Low Density Residential zone. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

Based on the assessment, it is recommended that the Development Application be refused.

LOCATION MAP



AERIAL



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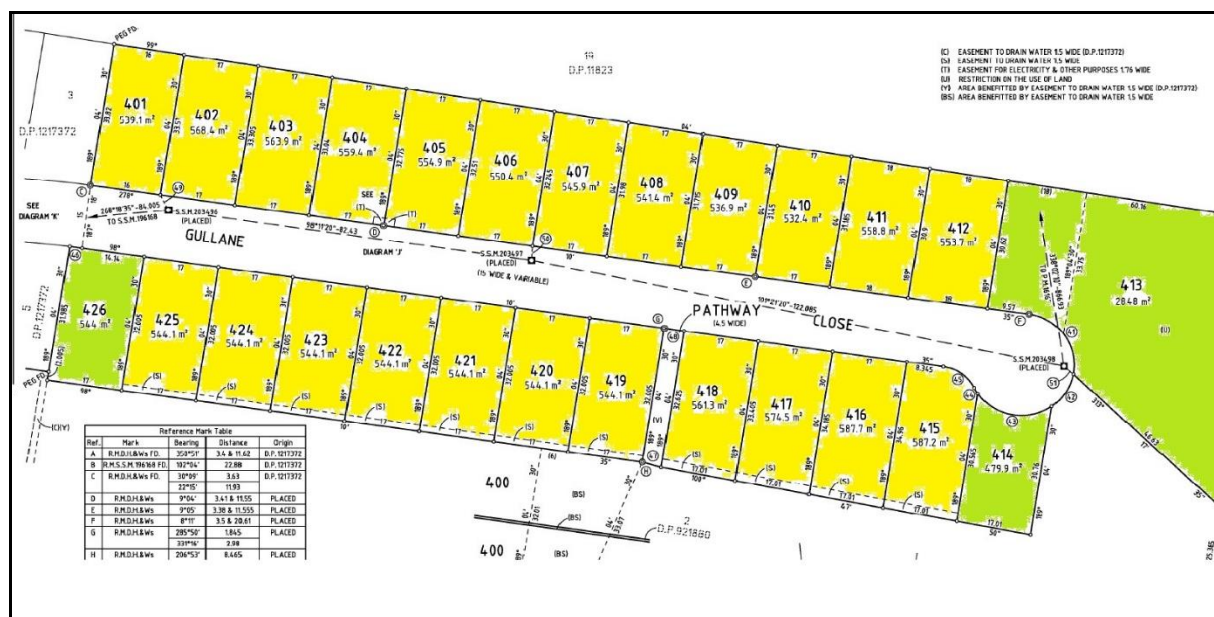
SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 18 Gullane Close, Heddon Greta, and is legally described as Lot 420 Deposited Plan 1242225.

The subject site is currently vacant and forms part of a recently registered subdivision comprising 26 residential allotments. This area is located in the urban release area known as Aversy Rise.

As outlined previously in this report, a total of 23 development applications proposing the construction of single-storey dual occupancies (and associated strata subdivision), have been lodged concurrently with Council for consideration. The applications all relate to properties located within Gullane Close, Heddon Greta.

The below diagram depicts the location of each of the 23 development applications, highlighted in yellow:



HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
14 December 2018	Development Application lodged with Council.
17 December 2018	Application referred to Council's Development Engineer for assessment.
11 January 2019	Application placed on public exhibition.
14 January 2019	Detailed assessment of the application against the Cessnock DCP carried out. Such assessment determines that the application does not meet the criteria in relation to front setback provision, and it is noted that the applicant has submitted justification for a variation to the provision.
7 February 2019	Correspondence issued to the applicant advising that Council officers are not supportive of the application, and providing the applicant with the following options: 1. Withdraw the development application; or 2. Advise that the application be progressed in its current form. Applicant advised that, should Option 2 be nominated, the application will be referred to an upcoming Council meeting for consideration/determination, based on the most recent set of plans accepted by Council, i.e., those submitted prior to Council's letter dated 7 February 2019.
14 February 2019	Applicant responds to the assessment officer via e-mail and forwards amended plans. Such plans were not formally accepted by Council.
18 February 2019	A meeting was held between Council's Director Planning and Environment, Development Services Manager and the applicant, to discuss the applications. The applicant is advised that, pursuant to Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> , Council does not agree to the lodgement of amended plans, and that the applications will be referred to Council for determination on the basis of the plans lodged in November 2018.
18 February 2019	Correspondence issued to applicant confirming the above.
18 February 2019	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2018/941/1 seeks approval for the construction of an attached single-storey dual occupancy followed by the strata subdivision thereof.

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Specifically, the proposed development involves:

The construction of two dwellings, each with separate frontage to the street and attached by a party wall. Each dwelling incorporates:

- 3 bedrooms
- 1 bedroom/ media room
- an attached single garage with internal access to the dwelling
- open plan kitchen, dining and living areas
- an attached alfresco area to be accessed directly off the living area

The dwellings are proposed to be setback 4.7m from the front boundary, 1.28m from the side boundaries and 7.5m (to alfresco area) from the rear boundary. Driveway/s and vehicular crossover/s are proposed, providing direct access to the garages off Gullane Close.

The dwellings are proposed to be constructed in face brick, with the front facade being rendered and a corrugated metal roof.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX)
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated.

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It is noted that the issue of site contamination was comprehensively addressed during consideration of the initial subdivision application that facilitated the creation of Gullane Close (Council Reference DA No. 2015/467). Furthermore, no evidence of contamination was observed during an inspection of the site.

On this basis, further consideration under this policy is not required.

2. State Environmental Planning Policy (Building Sustainability Index: BASIX)

The aim of this policy is to encourage sustainable residential development. This is achieved by the applicant being required to submit a list of commitments with the lodgement of a Development Application. This list of commitments considers the implementation of thermal and water efficiency devices to achieve sustainable outcomes. In this regard, the development has been designed to meet the applicable targets.

3. Cessnock Local Environmental Plan 2011

Permissibility

The subject site is zoned R2 Low Density Residential under the provisions of Cessnock Local Environmental Plan (CLEP) 2011.

The proposed development is defined as a '*dual occupancy (attached)*' under CLEP 2011, which means as follows:

'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'

The development satisfies the above definition, as the development comprises 2 dwellings which are attached to each other, and are wholly contained on one allotment of land.

A '*dual occupancy*' is a type of '*residential accommodation*'.

Development for the purpose of '*residential accommodation*' is a permitted land use in the R2 Low Density Residential zone, subject to development consent.

2.2 Objectives

The objectives of the R2 Low Density Residential zone, and a response to each, are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

It is considered that the proposal is inconsistent with this objective of the R2 Low Density Residential zone. Taking into consideration that a total of 23 development applications proposing the erection of attached single-storey dual occupancies within Gullane Close have been lodged, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment.

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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development does not inhibit other land uses that are designed to service the day to day needs of residents.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.6 Subdivision – Consent Requirements

In part, Clause 2.6 states:

Land to which this Plan applies may be subdivided, but only with development consent.

The above clause provides the basis for which approval can be granted by Council for the strata subdivision of the subject site.

- Clause 7.2 Earthworks

Clause 7.2 of the CLEP provides specific considerations in relation to earthworks. The objectives of Clause 7.2 are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

As the application involves the construction of a dual occupancy, earthworks will be required during the construction phase. The site has an approximate fall of 1.5m from the northwest corner to the south east. The applicant proposes a maximum of 575mm cut and a maximum of 575mm fill. In this regard, the earthworks proposed are considered to be minor and will not result in any detrimental impact upon the surrounding environment.

Clause 7.2(3) stipulates various matters that the consent authority must consider, prior to granting development consent. Overall, the development is considered suitable and consistent with the considerations relating to earthworks prescribed in Clause 7.2(3).

- (a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).***

There are no Draft Environmental Planning Instruments that are relevant to the application.

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**(a)(iii) The Provisions of any Development Control Plan****Cessnock Development Control Plan 2010**

The following is an assessment of the proposal's compliance with the relevant standards and controls prescribed in the Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1 Parking and Access			
Provision	Development standard	Discussion	Complies
1.4.1 Access to the site	The driveway is to be no closer than 1.5m from the boundary of the site and no closer than 6m to a corner boundary	<p>The proposed driveways are shown on the plans as being setback 5.7m from the side boundaries.</p> <p>The proposed access to the site will be off Gullane Close. In the event the application is approved, a Section 138 Application must be submitted to, and approved by Council, for the vehicular access crossing.</p>	Yes
Chapter 5 Waste Management and Minimisation			
A suitable waste management plan has been submitted. Waste generated during construction of the development shall be separated into recyclable and non-recyclable materials, and where possible, will be reused on-site. All other materials are to be disposed of at an appropriate facility.			Yes
Part D: Specific Guidelines			
Chapter 2 Urban Housing			
Relevant Section	Development standard	Discussion	Complies
2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	<p>The development is located in a new residential street which has minimal vegetation and is predominately vacant.</p> <p>As noted previously in this report, the proposed development is one of 23 dual occupancies proposed for Gullane Close. These developments will have an average setback of 5m, and will all comprise single-storey attached dual occupancies.</p> <p>The height and scale of the development will, if approved, create a uniformity and density that is not considered acceptable for a new residential release area.</p> <p>Further to the above, minimal variation to the front setbacks and the front facades of the buildings are proposed, thereby resulting in a streetscape that will be predominately the same. This 'sameness' in setback, façade treatment and bulk and</p>	No

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		scale, will not result in high quality urban design which is one of the main aims of the DCP.	
2.3.4 Front Setbacks	Setback to street with carriageway greater than 5m (Gullane Close) = 6m	<p>The subject site is located in a new urban release area, which has a carriageway width greater than 5m. Therefore, a front setback of 6m is required to be provided. The submitted plans show the building will be setback 4.7m from the front property boundary to the face of the external wall.</p> <p>In this regard a variation of 21.7% is proposed. This variation is not supported as the encroachment to the front setback will exacerbate the appearance of a narrower street dominated by dual occupancy development.</p>	No
	Parking and garages do not dominate the street	<p><i>Garage width</i></p> <p>The applicant is proposing single garages for each dwelling. The width of each garage door is 2.4m. The width of the lot is 17m, which results in the garages taking up 28.2% of the total frontage.</p>	Yes
2.3.5 Private Open Space	<p>1 – 2 bedrooms = 50m²</p> <p>3+ bedrooms = 70m²</p> <p>Principal Area = 4m x 4m</p>	<p>Each dwelling within the dual occupancy will contain 4 bedrooms. In this regard, the development is required to provide:</p> <ul style="list-style-type: none"> • A total of 70m² of private open space per dwelling; • A minimum dimension of 3m; and • A principal area that measures 4 x 4m, and is directly accessible from the living area. <p>The private open space calculation for each dwelling is approximately 77.6m² for Dwelling A and 76.7m² for Dwelling B which is compliant with the 70m² requirement.</p>	Yes
2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	<p>Gullane Close has 5 existing dwellings located at 1, 2, 3, 4 and 5 Gullane Close. These lots were created under a different subdivision.</p> <p>The remainder of Gullane Close is part of a newly constructed subdivision and is currently vacant, as shown below:</p>	No

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		 <p>The objective of this clause is to encourage the creation of attractive and well-designed residential development. As well as design, a selection/combination of characteristic elements and massing is to be considered to enhance the attractiveness of the street.</p> <p>The plans submitted show a combination of timber cladding and rendered brickwork for the external materials.</p> <p>When reviewing the external appearance of the proposed 23 dual occupancies, they all contain a combination of timber cladding and rendered brickwork. The percentage of each material is slightly different for each building. However, it is considered that the designs demonstrate minimal creativity with regard to design, materials and massing for each building, and with respect to articulation of the front facade.</p> <p>Further, it is considered that uniformity does not equal a good design outcome. In this regard, repetitive façade designs are not sympathetic/compatible with the intent of the DCP which is to create a varied streetscape.</p>	
2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The proposal is for a single-storey building, which will have an approximate height of 2.8m.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high	<p>The height of the proposed external walls are below three metres, hence, only 1m side and rear setbacks are required.</p> <p>The site plan submitted with the application shows the setbacks to the external walls to be approximately 1.2m for the side and 7.5m for the rear.</p>	Yes

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2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	<p>The submitted plans indicate the property will have a 1.8m high double lapped and capped fence constructed along the side property boundaries and internally. The fence will finish an estimated 6.7m (Dwelling A) to 7m (Dwelling B) from the front boundary. This will ensure adequate sight distance is achieved for vehicles leaving the site.</p> <p>The plans do not indicate any front fencing is to be constructed.</p> <p>Retaining walls are proposed on the eastern and western boundaries of a maximum height of 825mm and 925mm respectively.</p>	Yes
2.4.8 Carparking	Minimum of 2 parking spaces required per 3 + bedroom dwelling	The proposed development is for two attached dwellings, each containing 4 bedrooms. In this regard, the applicant is proposing single garages with room for stacked parking, resulting in the required two spaces per dwelling.	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	<p>This section of the DCP requires developments in new areas to provide substantial landscaping to enhance the appearance of buildings and their integration with the streetscape.</p> <p>The landscaping plan shows an approximate 8.6m² garden bed located each side of the driveway, totaling to an estimated 17m². This plan does not demonstrate how the landscaping will integrate with the street as no details on the species have been provided. In this regard, it is difficult to comprehend how high and dense the landscaping will be once mature.</p> <p>Therefore, as insufficient information has been provided with regard to the landscaping, it is considered that the objectives of this clause have not been achieved.</p>	No

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Part E: Specific Areas			
Chapter 14 Avery's Village, Heddon Greta			
Relevant Section	Development standard	Discussion	Complies
13.1.9 Bushfire Protection	This clause aims to minimise the risk to people and property	<p>The site is identified as being bushfire prone. The initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close, was originally referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The RFS provided a Bushfire Safety Authority, which included conditions to be imposed on the subdivision approval.</p> <p>The general advice from RFS stated that their comments only related to the subdivision and that any future development would require assessment under Section 79BA.</p> <p>The applicant has provided a bushfire assessment for the proposal. Council officers have reviewed the bushfire assessment and concur with the recommendation that the proposed building be constructed to a BAL Low.</p>	Yes
13.1.12 Drive In Theatre Interface	<p>Street lighting and other external lighting is to be designed so as to not reduce the effectiveness of the drive-in</p> <p>Roads to be designed to reduce vehicle headlights shining onto the drive-in</p> <p>Suitable screening is provided surrounding the drive-in (either on adjacent lots or on the drive-in site) to "disrupt" clear views of the drive-in screen and reduce the probability of copyright infringements</p>	<p>The location and orientation of Gullane Close was considered under the initial subdivision application (DC 8/2015/467/1), that created the properties within Gullane Close.</p> <p>It is noted that the properties within Gullane Close do not directly adjoin the site containing the drive-in. Therefore, it is considered that any impact associated with lighting, and concerns regarding copyright infringements, will be minimal.</p>	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

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

As demonstrated by the above assessment, the proposed development is likely to have an adverse impact on the built environment. In this regard, it is considered that the application must be assessed having due regard to the fact that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, have been lodged concurrently with Council. Cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density residential environment. Furthermore, it is considered that the development will result in an adverse impact on the streetscape due to the repetitive façade design proposed.

(c) *The suitability of the site for the development*

As outlined in the above assessment, it is acknowledged that a dual occupancy is a permitted land use in the R2 Low Density Residential zone. However, considering that a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close have been lodged concurrently, it is considered that, cumulatively, the locality is not suitable for the proliferation of dual occupancies proposed.

(d) *Any submissions made in accordance with this Act or the regulations*

The Development Application was publicly exhibited between 11 January and 24 January 2019.

One (1) submission was received during the exhibition period representing one (1) household. The submission received, objected to the proposal.

The following discussion addresses the issues and concerns raised in the submission:

Issue	Comment
Avery's Rise is zoned low density and DA's equate to a medium density development	<p>The site is zoned R2 Low Density Residential under the Cessnock Local Environmental Plan 2011 (CLEP 2011). The development is defined as a <i>dual occupancy</i> and is permissible with consent.</p> <p>23 separate development applications, each proposing construction of an attached single-storey dual occupancy, have been lodged with Council for consideration. Cumulatively, it is agreed that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, rather than a low density residential environment.</p>
Increased number of dwellings pose traffic safety issues	<p>Council's Development Engineer has assessed the application (noting that assessment has been carried out in respect of a total of 23 applications, each proposing construction of an attached single-storey dual occupancy), and no objection is raised, subject to the inclusion of conditions. It is considered that Gullane Close is capable of accommodating the increase in traffic resulting from the proposed development.</p> <p>Further, the subject site is part of a recent land release and the road has been constructed to Council's standards.</p>

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The development contradicts Part 2 of the Section 88B in DP 1217372	<p>A review of the Section 88B for DP 1217372, has revealed that this instrument does not relate to the subject site. Rather, it relates to Stage 1A of Development Consent No. 2013/649, which involved the extension of Averys Lane to the south of the subject site.</p> <p>The applicable Section 88B instrument for DP 1242225 includes various requirements that relate to building materials, fencing use and temporary accommodation. It is also noted that the Section 88B restrictions do not prohibit dual occupancy development, but restrict the siting for dual occupancy development to corner sites. In this case, the applicant is not proposing any dual occupancies on corner lots.</p>
Increase in traffic in Gullane Close and traffic congestion	Refer to previous comments in this table.
Concern that certain vehicles (i.e. 4WD / SUV) will not fit into the garages and will park on street	<p>The applicant has indicated on the plans that single garages will be provided for each dwelling. Under Section 2.4.8 of Chapter D.2 of the CDCP 2010, a minimum garage width of 2.4m is required. In this instance the proposed garages will have a 2.4m wide roller door, with an internal width of 3m, which is compliant with the relevant standard.</p> <p>With regard to the vehicle clearance requirements of the garages, the Building Code of Australia requires a minimum ceiling height of 2.1m to non-habitable rooms. The plans do not indicate the minimum ceiling height for the garage, however, it is noted that any application approved by Council has a standard condition of consent imposed requiring the plans to comply with the Building Code of Australia, thus the ceiling heights will be compliant.</p>
Increased number of vehicles parking on the street due to limited/insufficient parking on site	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, which requires a minimum of two (2) carparking spaces. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p>
Gullane Close is not wide enough to accommodate 2 way traffic if vehicles are parked on the street	<p>The design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>Whilst the concerns of residents in respect of road width are noted, this issue is not relevant in the assessment of this application, particularly considering that each proposed dwelling has provided the required number of carparking spaces on site.</p>
Services vehicles will have trouble accessing the street	<p>As outlined previously, the design and construction of Gullane Close was undertaken in association with the initial subdivision of the site.</p> <p>The road has been constructed in accordance with Council's standards, and is of adequate width to permit service vehicles such as garbage trucks, to access the site.</p>

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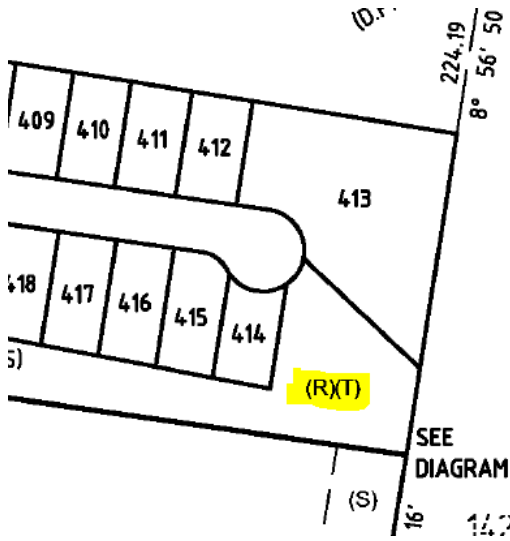
Where will the garbage bins be put if vehicles are parked on the street	<p>As outlined previously, each proposed dwelling has provided the required number of carparking spaces on site.</p> <p>Notwithstanding the above, in the event vehicles park on the street, there remains adequate road frontage available for the placement of garbage bins for collection. There is no expected conflict between street parking and garbage bin collection that is any different to other residential circumstances.</p>
Increase in noise due to traffic and increased density	<p>Gullane Close is a cul-de-sac street and has an approximate length of 260m. The traffic accessing this street is localised and would predominately consist of residents. In this regard, it is considered that both traffic and noise generation will be similar to other residential circumstances.</p>
Loss of neighbourhood amenity	<p>The location of the development is within a recent land release and the surrounding properties are currently vacant. Whilst the character and the amenity of the area is expected to be significantly transformed, this is an inevitable consequence of development occurring in new release areas.</p>
Inadequate documents provided to neighbouring properties - not advised of the scale of the development within the street	<p>The subject application was notified in accordance with Chapter B.2 Public Notification and Advertising of the Cessnock DCP 2010.</p> <p>The relevant documents were placed on exhibition and made available to the public via Council's website and offices.</p>
Inconsistent with the context of the surrounding properties	<p>The land is located in a newly released residential area which is predominately vacant.</p> <p>Furthermore, Gullane Close is largely vacant, and it is therefore difficult to determine if the development is inconsistent with surrounding properties.</p>
Information submitted to Council is inaccurate - supporting documents referenced different Council	<p>It was noted by Council staff that the Statement of Environmental Effects submitted in conjunction with the application referred to a different Council/Local Government Area. The applicant was made aware of this error and subsequently amended the document.</p> <p>Notwithstanding the error, it is noted that the content of the submitted documents satisfactorily considered and addressed Council's LEP and DCP. The reference to another Council/Local Government Area did not affect the assessment of the application.</p>
The proposed development should be considered as medium density development	<p>The subject application is defined as <i>residential accommodation (dual occupancy)</i> which is permissible with consent within the R2 Low Density Residential zone.</p> <p>On its own, this type of development is not considered to be classified as 'medium density'. However, it is noted that 23 applications for attached dual occupancies have been lodged for properties in Gullane Close. When considering the cumulative impact of these developments, it is considered that the locality would display medium density characteristics.</p>

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<p>Occupiers of the dual occupancies are unlikely to stack-park vehicles within the site</p>	<p>As outlined previously, Chapter D.2 Urban Housing of the Cessnock DCP 2010 outlines criteria for the number of carparking spaces required.</p> <p>The criteria is based on the number of bedrooms which determines the number of carparking spaces required. In this instance, it is proposed that each dwelling will contain 4 bedrooms, therefore, a total of 2 parking spaces are required to be provided. The plans provided show that each dwelling will have a single garage and adequate space for stacked parking, thereby complying with the requirements of the DCP.</p> <p>The development has provided adequate area for vehicles to park, however, should residents wish to park on the street, Council cannot restrict this. In this regard, the possibility of vehicles parking on the street is not a reason to refuse consent to the application.</p>
<p>No storage areas have been provided for each unit. This will result in the garages being used for storage, not parking.</p>	<p>Chapter D.2 Urban Housing of the Cessnock DCP 2010, does not require dedicated storage areas to be provided for residential development.</p> <p>There is no dedicated storage room proposed for the dwellings, however it is noted that there are opportunities for storage within the dwellings, such as cupboards/linen areas.</p>
<p>Potential restriction on vehicles accessing the land adjoining the cul-de-sac for farming and services</p>	<p>A review of the Deposited Plan has identified that there is a reservation and conditions in the Crown grant which provides restrictions to the use of the land. This is located at the end of the cul-de-sac (between lots 413 and 414), as illustrated below:</p>  <p>This reservation/restriction will provide access to the creek, should it be required.</p>
<p>Problems with emergency evacuation of the street due to increased population density, width of road</p>	<p>Refer to previous discussion in this table regarding street design and access by service vehicles.</p>

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Heddon Street and Main Road intersection has been identified as not being adequate and requiring upgrade	<p>This application is for an attached dual occupancy located in Gullane Close. The adequacy of the Heddon Street and Main Road intersection was considered during the assessment of previous subdivision applications for the Avery's Village urban release area, and conditions imposed on the development consents accordingly in relation to lot release thresholds. It is noted that such thresholds have not yet been reached, and therefore, the intersection is yet to be upgraded.</p> <p>Consequently, this concern is not relevant to this application.</p>
Lack of infrastructure in the area i.e. public transport, shops and sports fields	<p>This consideration is relevant at the time of subdivision release, not when the resulting built form is developed on lots which have already been registered.</p> <p>Notwithstanding, it is noted that services and infrastructure are available within areas such as Heddon Greta, Kurri Kurri and Maitland.</p>
Bushfire Assessment report	<p>The Bushfire Assessment Report submitted to Council was undertaken by an Accredited Practitioner who is listed on the National Register. In this regard, staff supported the recommendations of the Bushfire Assessment Report, which determined the subject site to have a Bushfire Attack Level (BAL) of Low.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 contributions under the 'Avery's Village Heddon Greta Section 94 Contribution Plan 2013', are payable for the proposal.

In the event the application is approved, Section 7.11 contributions totalling \$16,825.83 would be payable, in accordance with the following:

Calculation	Amount
Open Space Recreational Sporting Facilities	\$ 5,161.08
Community Facilities	\$ 3,578.98
Road and Traffic Facilities	\$ 7,895.95
Plan Management Administration	\$ 189.82
Total	\$16, 825.83

INTERNAL REFERRALS

The Development Application was referred to the following Council officer for comment:

Officer	Comment
Development Engineer	No objection raised, subject to conditions of consent being imposed on the determination notice.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The subject site is zoned R2 Low Density Residential under the Cessnock LEP 2011 and the proposed land use is permissible with development consent. Notwithstanding the permissibility of the proposed development, it is considered necessary to have due regard to the fact that 23 separate development applications, each proposing construction of an attached single-storey dual occupancy within Gullane Close, have been lodged with Council for consideration. Cumulatively, these proposals are considered to be inconsistent with the intent of the R2 Low Density Residential zone under the Cessnock LEP 2011.

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It is considered that the proliferation of this specific type of development will result in Gullane Close resembling a medium density residential environment, which is not consistent with the objectives of the R2 zone. In addition, the location of Gullane Close, on the periphery of the existing residential area, is not considered appropriate for the intensification in residential density that would occur in the event multiple dual occupancies are approved.

In addition to the above, it is noted that the development proposes variations to the design elements prescribed in Chapter D.2 Urban Housing of the Cessnock DCP 2010, with regard to streetscape and front setbacks; external appearance and landscape design. These variations are not supported.

On the basis of the above, it is recommended that the application be refused, for the reasons contained in this report.

ENCLOSURES

[1](#) Plans

.

REASONS FOR REFUSAL

1. The proposal is inconsistent with the objective of the R2 Low Density Residential zone of the Cessnock Local Environmental Plan 2011, which is *'to provide for the housing needs of the community within a low density residential environment'*. Taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, cumulatively, the proliferation of this specific type of development will result in Gullane Close resembling a medium density, rather than low density, residential environment (pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. Cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, the development will result in an adverse impact on the streetscape (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is inconsistent with the objectives and aims of Chapter D.2 of the Cessnock Development Control Plan 2010. Specifically, the proposal is not a form of high quality urban design and cumulatively, taking into consideration a total of 23 development applications proposing the erection of single-storey dual occupancies within Gullane Close, does not encourage a high standard of residential amenity (pursuant to Section 4.15(1)(a)(iii) and (1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is non-compliant with Clause 2.3.4 of Chapter D.2 of the Cessnock Development Control Plan 2010, which prescribes that a minimum front setback of 6m is to be provided (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
5. The development is non-compliant with the 'design elements' provisions relating to streetscape, external appearance and landscape design, as outlined in Chapter D.2 of the Cessnock Development Control Plan 2010 (pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
6. For the reasons outlined above, the development is contrary to the public interest (pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

Corporate and Community

Report No. CC18/2019

Corporate and Community Services



SUBJECT: *2019 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - CALL FOR MOTIONS AND COUNCILLOR NOMINATIONS TO ATTEND*

RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

The purpose of this report is to enable Council to determine delegates to the 2019 National General Assembly of Local Government to be held in Canberra 16-19 June 2019 and to consider motions under the theme “*future focused*” to be submitted to the conference.

RECOMMENDATION

That Council endorse the request from Mayor Pynsent to attend the 2019 National General Assembly of Local Government.

BACKGROUND

The National General Assembly (NGA) of Local Government is to be held in Canberra from 16 to 19 June 2019 and Council at the meeting of 6 February 2019 resolved:

1. That Councillors submit motions for referral to the 2019 National General Assembly of Local Government to the General Managers office by 8 March 2019, so as to allow inclusion in the agenda for the meeting of 20 March 2019 for Council determination.
2. That Councillors seeking to attend the 2019 National General Assembly of Local Government submit a Request to Attend Conference application to the General Managers office by 8 March 2019, so as to allow inclusion in the agenda for the meeting of 20 March 2019 for Council determination.

REPORT/PROPOSAL

The 2019 National General Assembly of Local Government is to be held in Canberra 16-19 June 2019. Council considered this at the meeting of 6 February and resolved that Councillors interested in attending submit an application to the General Manager by 8 March 2019 and that Councillors also submit any motions for the conference by the same date.

Call for Motions

The ALGA Board is calling for motions for the 2019 NGA under this year’s theme “*future focused*” with motion needed to be submitted by 29 March 2019. Councillors were asked to submit motions in line with the theme for the conference to allow Council to consider referring the motions to the ALGA.

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To be eligible for inclusion in the NGA Business Papers, and subsequent debate on the floor of the NGA, motions must meet the following criteria:

1. be relevant to the work of Local Government nationally;
2. be consistent with the themes of the NGA;
3. complement or build on the policy objectives of your State and Territory Local Government Association;
4. be from a Council which is a financial member of their State or Territory Local Government Association;
5. propose a clear action and outcome; and
6. not be advanced on behalf of external third parties which may seek to use the NGA to apply pressure to Board members or to gain National political exposure for positions that are not directly relevant to the work of, or in the National interests of Local Government.

No motions have been forwarded to the General Manager, therefore this report has no recommendations for Council to consider.

Councillor Attendance

In accordance with *Councillors Expenses and Facilities Policy*, a Council resolution is required to approve Interstate conferences and related travel expenditure. By the closing date for applications, the General Manager had received one application to attend being from Mayor Pynsent (***Enclosure 1***).

OPTIONS

N/A

CONSULTATION

General Manager

STRATEGIC LINKS

Delivery Program

This report aligns with Objective 5.1 *Fostering and Supporting Community Leadership*, with professional development for Councillors intrinsically linked to Civic Leadership and Effective Governance.

IMPLICATIONS

a. Policy and Procedural Implications

Application for attendance to the 2019 National General Assembly of Local Government is in accordance with *Councillors Expenses and Facilities Policy*.

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b. Financial Implications

It is estimated the costs will be approximately \$2,000 per delegate (registration, accommodation and travel) with funding available in the 2018-19 Councillor conferences budget.

There is currently \$12,700 expended from a \$25,000 allocation. Council approved attendance of 3 Councillors to the LG NSW Tourism Conference in March, at an anticipated cost of \$1,200 per delegate, with these costs not yet incurred or allocated to the expenditure numbers. Factoring this in the adjusted remaining balance in the conference allocation would be approximately \$8,700.

c. Legislative Implications

Nil

d. Risk Implications

Nil

e. Other Implications

N/A

CONCLUSION

This report provides information regarding the 2019 National General Assembly of Local Government.

ENCLOSURES

[1](#) Councillor _ Request to Attend Conference

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Corporate and Community Services



SUBJECT: *RESOLUTIONS TRACKING REPORT*

RESPONSIBLE OFFICER: *Finance and Administration Manager - Andrew Glauser*

SUMMARY

The enclosure contains pending actions from previous meetings as well as completed actions for period 13 February 2019 to 13 March 2019.

Councillors are advised that the format for the reports are currently under review.

RECOMMENDATION

That Council receive the report and note the information.

ENCLOSURES

- 1 ➡ Completed Actions 13 February 2019 to 13 March 2019
- 2 ➡ Outstanding Actions

Corporate and Community

Report No. CC20/2019

Corporate and Community Services



SUBJECT: *INVESTMENT REPORT - FEBRUARY 2019*

RESPONSIBLE OFFICER: *Finance and Administration Manager - Andrew Glauser*

SUMMARY

Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy require a monthly report to Council detailing all money invested.

RECOMMENDATION

That Council receive the report and note the information.

BACKGROUND

The Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's Investment Policy requires a monthly report to Council detailing all money invested.

REPORT

Statement by the Responsible Accounting Officer

I, Robert Maginnity, as Responsible Accounting Officer, hereby certify that this report is produced in accordance with Clause 212 of the Local Government (General) Regulation 2005 and that all investments have been made in accordance with the Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy.

General Investment Commentary

Following assessment of projected cash flow requirements, surplus funds are invested in accordance with Council's Investment Policy. Investment revenues to the end of February 2019 exceeded the benchmark in the Investment Policy with an actual level of return 22.72% more than budget.

The Reserve Bank of Australia (RBA) official cash rate as at 28 February 2019 was 1.50%. Scheduled RBA Board meetings are held on the first Tuesday of each month (excluding January) at which the official cash rate is one of the matters considered. The meeting held on 5 March 2019 retained the official cash rate at 1.50%.

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Corporate and Community Services

**Investment Portfolio Information**

Total cash and investments held by Council as at 28 February 2019:

Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity / Next Coupon Date	Current Coupon Rate	Par Value \$'000
	Commonwealth Bank	CASH			1.15%	5,404
	Commonwealth Bank	At Call			0.50%	41
1243	AMP Bank	At Call			1.80%	500
1263m	Westpac Bank	TD	154	03-Apr-19	2.62%	600
1277t	Greater Bank	FRN	88	24-May-19	3.34%	500
1281i	National Bank	TD	160	30-Jul-19	2.63%	700
1286i	IMB Bank	TD	238	07-May-19	2.70%	900
1298n	Newcastle Permanent Building Society	VRD	90	03-Apr-19	3.47%	800
1303g	IMB Bank	TD	160	08-Jul-19	2.60%	700
1304f	AMP Bank	TD	189	23-Jul-19	2.75%	800
1306f	Suncorp Bank	TD	195	21-May-19	2.65%	900
1322b	Bankwest	TD	272	23-Apr-19	2.80%	900
1324c	National Bank	TD	205	12-Jun-19	2.70%	900
1325b	Members Equity Bank	TD	182	21-Aug-19	2.73%	900
1330a	National Bank	TD	273	26-Jun-19	2.71%	900
1332b	Suncorp Bank	TD	181	30-May-19	2.70%	1,000
1334a	Commonwealth Bank	TD	274	18-Jun-19	2.65%	800
1335a	Suncorp Bank	TD	223	12-Mar-19	2.65%	1,000
1337b	Bankwest	TD	239	04-Jun-19	2.65%	1,200
1338a	Bankwest	TD	119	25-Jun-19	2.50%	800
1341a	AMP Bank	TD	182	06-Aug-19	2.80%	1,000
1342a	Suncorp Bank	TD	156	11-Jul-19	2.75%	1,000
1343a	National Bank	TD	182	16-Apr-19	2.70%	1,000
1345a	National Bank	TD	203	14-May-19	2.71%	800
1346	Suncorp Bank	TD	221	19-Mar-19	2.70%	800
1347	Suncorp Bank	TD	228	26-Mar-19	2.70%	800
1348	AMP Bank	TD	230	02-Apr-19	2.80%	700
1349	Bankwest	TD	294	11-Jun-19	2.80%	1,000
1350	Bankwest	TD	301	18-Jun-19	2.80%	1,000
1351	Commonwealth Bank	TD	232	16-Apr-19	2.62%	1,000
1352	Commonwealth Bank	TD	246	30-Apr-19	2.66%	1,000
1353	Suncorp Bank	TD	186	05-Mar-19	2.70%	1,500
1354	AMP Bank	TD	217	09-Apr-19	2.80%	800
1358	National Bank	TD	212	19-Jun-19	2.70%	1,000
1359a	National Bank	TD	182	15-Jul-19	2.72%	1,000
1360	National Bank	TD	270	27-Aug-19	2.75%	1,000
1361	AMP Bank	TD	208	02-Jul-19	2.75%	1,000
1362	AMP Bank	TD	215	09-Jul-19	2.75%	1,000
1363	AMP Bank	TD	208	10-Sep-19	2.80%	1,000
1364	AMP Bank	TD	215	17-Sep-19	2.80%	1,000
1365	Bankwest	TD	61	30-Apr-19	2.55%	1,000
TOTAL						40,645

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The level of funds held and the percentage invested with financial institutions:

Financial Institution	Rating	Maximum Counterparty	Amount \$'000	% of Portfolio
Commonwealth Bank	A1+	25%	8,245	20.28%
Bankwest	A1+	25%	5,900	14.52%
IMB Bank	A2	10%	1,600	3.94%
National Bank	A1+	25%	7,300	17.96%
Suncorp Bank	A1	25%	7,000	17.22%
Members Equity Bank	A2	10%	900	2.21%
Newcastle Permanent Building Society	A2	10%	800	1.97%
AMP Bank	A1	25%	7,800	19.19%
Westpac Bank	A1+	25%	600	1.48%
Greater Bank	A2	10%	500	1.23%
TOTAL			40,645	100.00%

Investment types, risk assessment, amount and percentage invested compared to the total:

Investment Type	Risk Assessment		Amount \$'000	% of Portfolio
	Capital	Interest		
Term Deposits	Low	Low	33,400	82.18%
Cash/At Call Deposits	Low	Low	5,945	14.62%
Variable Rate Notes	Low	Low	800	1.97%
Floating Rate Deposit	Low	Low	500	1.23%
TOTAL			40,645	100.00%

Comparison of on interest rates, earnings and balances this year to last year:

Performance Measures	This Year	Last Year
Portfolio Average Interest Rate (year to date)	2.56%	2.36%
BBSW Average Interest Rate (year to date) *	1.98%	1.73%
Actual Investment Interest Earned (year to date)	\$683,136	\$570,368
Budget Investment Interest (year to date)	\$556,680	\$563,328
Original Budget Investment Interest (Annual)	\$825,000	\$825,000
Revised Budget Investment Interest (Annual)	\$835,000	\$825,000

Investment Balances (Par Value)	This Year	Last Year
Opening Balance as at 1 July	\$38,760,390	\$36,277,000
Month End Current Balance	\$40,644,669	\$37,260,722

- * BBSW 90 day Bank Bill Reference Rate (performance measure as per Council's Investment Policy)

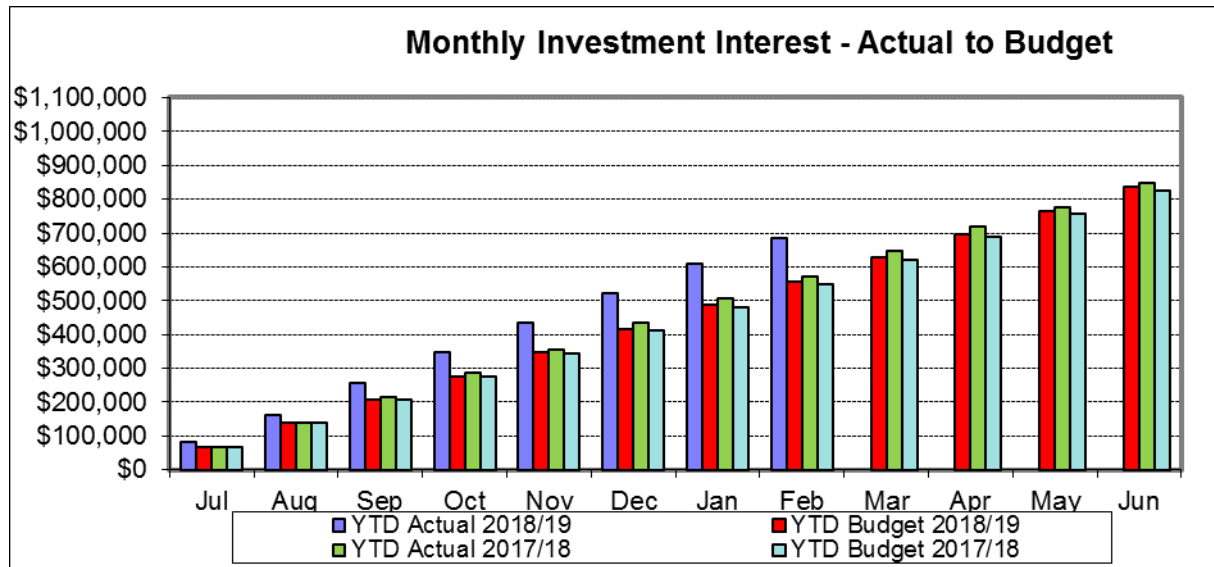
Corporate and Community

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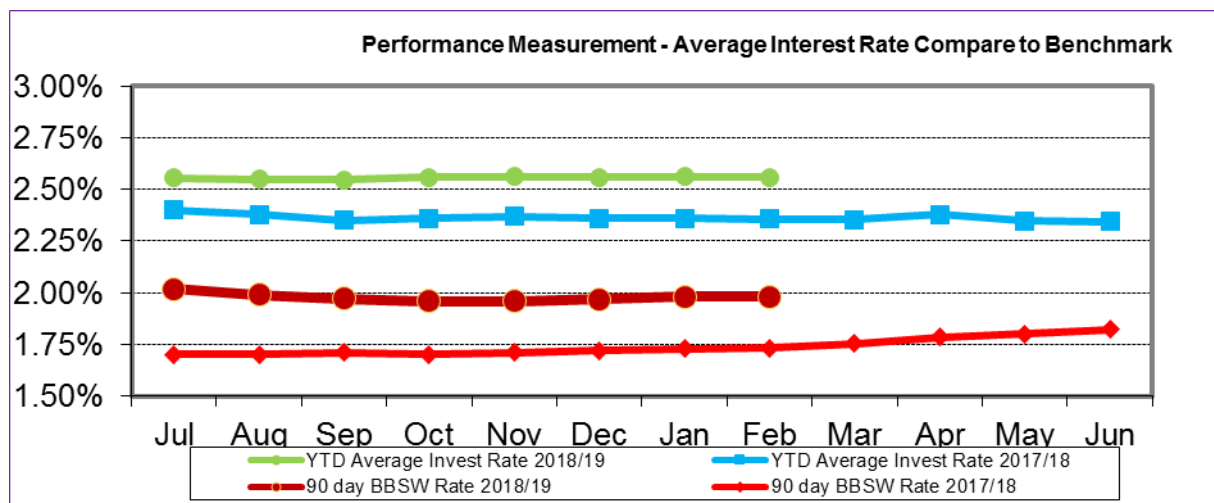
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Actual interest earned to budget for this year and last year:



Current year portfolio performance to prior year performance:



Internal and external restrictions over cash and investments held:

Month End Totals \$'000	Feb 2019	Jan 2019	Dec 2018
Developer Contributions	12,335	11,958	11,684
RMS Contributions	2,303	2,303	2,303
Specific Purpose Unexpended Grants	1,580	600	600
Domestic Waste Management Reserve	430	430	430
External Restrictions	16,648	15,291	15,017
Plant and vehicle replacement reserve	1,915	1,782	1,922
Employees leave entitlement reserve	2,719	2,719	2,719
Bridge replacement reserve	627	674	674
Insurance provisions reserve	933	933	933

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Miscellaneous and property reserve	1,001	1,008	651
Property investment fund	962	827	827
Civil Works reserve	1,518	1,518	1,613
Waste depot and rehabilitation reserve	5,588	5,588	5,588
Computer reserve	362	362	284
Lawn cemeteries reserve	6	6	6
Operations and programs reserve	488	488	488
Rezoning reserve	85	85	85
Energy efficiency reserve	96	96	99
Loan Funds unexpended	655	670	500
Internal Restrictions	16,955	16,756	16,389
Unrestricted - Balance of funds	7,042	5,570	9,201
Total Cash & Investments	40,645	37,617	40,607

OPTIONS

N/A

CONSULTATION

Director Corporate & Community Services
Management Accountant

STRATEGIC LINKS**a. Delivery Program**

Investment returns are an integral part of funding sources for future services and community expectations within the Delivery Program and Operational Plan.

This report is a part of the organisation's governance framework – providing feedback on the progress against the investment policy and budget adopted by Council. This is in line with the community's desired outcome of: "*Civic Leadership and Effective Governance*" and more specifically links to strategic direction:

5.3.7: Continue to educate staff on statutory compliance obligations.

5.3.8: Carry out governance functions to comply with legislation and best practice.

b. Other Plans

N/A

IMPLICATIONS**a. Policy and Procedural Implications**

Investments are held in accordance with Council's Investment Policy which accords with the Ministerial Investment Order.

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b. Financial Implications

Investment returns are included in Council's Delivery Program and Operational Plan. Amendments are effected through the Quarterly Budget Review process. Investment portfolio performance is detailed within the report with comparisons to prior year and budget.

A portion of the portfolio and its associated investment income is restricted as it relates to funds held from Developer Contributions, Domestic Waste Management and Property Investment Reserve and is not available for operational projects.

c. Legislative Implications

This report meets Council's statutory obligations under the Local Government (General) Regulation 2005 and the Local Government Act 1993.

d. Risk Implications

Investment risks are detailed within this report.

e. Other Implications

There are no environmental, community, consultative or other implications to this report.

CONCLUSION

The report details investments held and meets statutory and policy reporting obligations.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *CESSNOCK STOMP FESTIVAL - IN-KIND SUPPORT*

RESPONSIBLE OFFICER: *Director Works & Infrastructure – Justin Fitzpatrick-Barr*

SUMMARY

The purpose of this report is to seek Council's approval to provide in-kind support to the Cessnock Chamber of Commerce to hold 'Stomp Festival' and to temporarily suspend the Alcohol Free Zone in Cessnock on Sunday, 28 April 2019.

RECOMMENDATION

1. That Council support the Stomp Festival by providing in-kind support as detailed in the report for waste management services and the provision and installation of road closure equipment in accordance with the Festival Traffic Control Plan;
2. That Council, in light of previous decisions, not waive fees for Street Vending Applications and Road Events and Activities Temporary Road Closure Applications;
3. That Council suspends the operation of the Alcohol Free Zone in Vincent and Cooper Streets, Cessnock between the hours of 6.00am and 6.00pm on Sunday, 28 April 2019.

BACKGROUND

The Cessnock Chamber of Commerce (the Chamber) are planning to hold the 'Stomp Festival' on Sunday, 28 April 2019 and have approached Council seeking various forms of in-kind support for the event.

The Chamber is also seeking Council's suspension of the Alcohol Free Zone in Vincent and Cooper Streets, Cessnock for the duration of the festival.

REPORT/PROPOSAL

The following in-kind support is being requested:

1. Waste Management

- Clearing of existing street waste bins on Friday prior to the Festival;
- Supply of waste services; (it should be noted that recycling services may not be provided at the event due to the high contamination levels of product encountered in the past and the impact of the Return and Earn scheme that excludes wine bottles – general waste services will not be effected)
- Delivery of bins to an agreed suitable location on Friday prior to the Festival to be spread around the Festival site by Chamber volunteers;

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- Collection of bins on Monday after return to the selected location by Chamber volunteers on Sunday, and
- Sweeping of Vincent and Cooper Streets at approximately 8pm on Sunday prior to the reopening of roads.

2. Road Closure Equipment and Roadside Message Boards

- Supply and installation of traffic control devices in accordance with the Festival Traffic Control Plan.
- Provision of VMS boards to advise residents and visitors of the planned road closures for the upcoming Festival, with these being set up at strategic locations 7 days prior to the event.

3. Fee Waiver

- Waiving of fees for Street Vending Applications, and
- Waiving of fees for Road Events and Activities Temporary Road Closure Application.

4. Suspension of Alcohol Free Zone

A major attraction for attendees at the festival is wine tasting, which will be undertaken in accordance with Responsible Service of Alcohol (RSA) guidelines. In order for this activity to occur it is necessary to suspend the operation of the Alcohol Free Zone on Vincent Street Cessnock, between Edward Street and Cooper Street, along with sections of Cooper Street between Charlton and Cumberland Streets, under section 645 of the *Local Government Act 1993*.

Estimated Costs

The estimated cost to waive all applicable fees and provide all of the above is as follows:

Service	Amount
1. Waste Management	\$2,500
2. Road Closure Equipment & Set Up	\$5,000
3. Fee Waiver estimates (excluding street vending applications)	\$500
4. Suspension of Alcohol Free Zone	\$500
TOTAL	\$8,500

In reviewing the requests, Council Officers have determined that the requests can be provided within existing recurrent operating budgets (excludes personnel to staff road closures).

However, officers are aware that Council has previously declined to waive fees relating to Street Vending Applications. On this basis it is recommended that Council only provides support for Items 1, 2 and 4 of the above at a cost of \$8,000 (\$8,500 less \$500). The cost of Councils fees would thereby be reduced to approximately \$500.

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OPTIONS

Option 1 (Preferred):

1. That Council support the Stomp Festival by providing in-kind support as detailed in the report for waste management services and the provision and installation of road closure equipment in accordance with the Festival Traffic Control Plan;
2. That Council, in light of previous decisions, not waive fees for Street Vending Applications and Road Events and Activities Temporary Road Closure Applications;
3. That Council suspends the operation of the Alcohol Free Zone in Vincent and Cooper Streets, Cessnock between the hours of 6.00am and 6.00pm on Sunday, 28 April 2019.

This is the preferred option as it allows Council to provide support for the requested Items 1, 2 and 4 as detailed above at a total estimated cost of \$8,000 and allows Council to consider its position with respect to the waiving of fees.

Option 2 (Not Preferred):

Alternate resolutions which may be considered include:

1. That Council provide support for all of the requests at a total estimated cost of \$8,500;
2. That Council provides partial support for the requests;
3. That Council provides no support.

CONSULTATION

External consultation has been undertaken with the following:

- NSW Police (at the LTC Meeting of 18 March 2019)

Internal consultation has been undertaken with the following:

- Works and Operations Manager
- Environmental and Waste Services Manager
- Acting Economic Development Manager
- Infrastructure Manager
- Traffic Engineering Officer
- Road Safety Officer

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STRATEGIC LINKS

a. Delivery Program

Delivery Program 2017-21: The proposed in-kind sponsorship for this event supports:

Objective 2.3 – Increasing Tourism Opportunities and Visitation in the Area, as the event has the potential of attracting approximately 19,000 people to the LGA over the weekend of 28 April 2019.

b. Other Plans

Community Strategic Plan – Cessnock 2027: The proposed in-kind sponsorship for this event supports the following objectives:

- *Objective 1.2 - Strengthening community culture;*
- *Objective 1.4 - Fostering an articulate and creative community;*
- *Objective 2.1 – Diversifying local business options;*
- *Objective 2.3 – Increasing Tourism Opportunities and Visitation in the Area;*
- *Objective 3.3 – Better waste management and recycling;*
- *Objective 5.1 – Fostering and supporting community leadership; and*
- *Objective 5.3 – Making Council more responsive to the community.*

Cessnock City Council Health and Well-being Plan 2017-21: The proposed in-kind sponsorship for this event supports the following objectives:

- *Objective 1.1 – Active Communities;*
- *Objective 1.3 – Responsible alcohol consumption;*
- *Objective 1.7 – Safer Communities; and*
- *Objective 1.11 – Inclusion, participation and connectivity*

IMPLICATIONS

a. Policy and Procedural Implications

The following council policies are relevant to determining this application:

- *Cessnock City Council Community Sponsorship & Fee Waiving Policy; and*
- *Cessnock City Council Risk Management Policy.*

b. Financial Implications

The total cost of providing the request assistance for the Stomp Festival requests is estimated to be \$8,500. The estimated cost of the recommended contribution is \$8,000. The support can be provided within existing recurrent operating budgets.

c. Legislative Implications

The following legislative/regulatory provisions are relevant to this report:

- *Local Government Act 1993 – section 645 – Suspension or Cancellation of AFZ;*

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- *Local Government Act 1993* – Section 355 – How a council may exercise functions;
- *Local Government Act 1993* - Section 356 – Can a council financially assist others;
- *Local Government Act 1993* – Section 610E – Council may waive or reduce fees;
- *Roads Act 1993* – Section 116 – Application to RMS for the regulation of traffic; and
- *Roads Act 1993* - Section 139A – Street vending requests and charges in built-up areas.

d. Risk Implications

Reputational Risk: There is a risk to Council's reputation if it is not seen to support a free social event that is growing in popularity from year to year.

Financial Risk: There is a risk that without in-kind support the event may not be sustainable for the Chamber in the short term until the event is fully established.

e. Environmental Implications

The provision of bins at locations to specifically suit the event and street sweeping aims to ensure no negative environmental impacts from the activity.

f. Other Implications

Nil

CONCLUSION

On the basis of supporting events that promote free visitation across the Cessnock LGA, it is recommended that Council provides in-kind sponsorship to the upcoming 'Stomp Festival' and temporarily suspends the operation of the Alcohol Free Zone on Vincent Street, Cessnock, as detailed in the report.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *MINUTES OF THE UNSEALED ROADS COMMITTEE HELD ON 7 DECEMBER 2018*

RESPONSIBLE OFFICER: *Infrastructure Manager - Katrina Kerr*

RECOMMENDATION

That the recommendations of the Unsealed Roads Committee held 7 December 2018 be adopted as a resolution of the Ordinary Council being:

1. URCOR3/2018 - That Council note the Committee's endorsement of the updated Terms of Reference for the Unsealed Roads Committee.
2. URCOR2/2018 - That Council note the status of Council's existing policies relating to unsealed roads and;
 - That the General Manager prepare a report on prioritising the sealing of urban unsealed roads, setting out criteria including length of road, cost, benefit, usage, and traffic volume.
 - That the General Manager examine ways of funding the prioritised sealing of urban unsealed roads.
 - That the General Manager investigate why some roads in Millview Estate are only partly sealed.
 - That the General Manager prepare suitable engagement material regarding the resealing of sealed roads.
 - That the General Manager investigate road conditions at the school bus stop on Wollombi Road adjacent to Brown Street, Bellbird.

MINUTES OF THE UNSEALED ROADS COMMITTEE MEETING OF CESSNOCK CITY COUNCIL HELD IN THE GENERAL MANAGER'S MEETING ROOM ON FRIDAY, 7 DECEMBER 2018, COMMENCING AT 4.00 PM

OPENING: The meeting was opened at 4.01pm

PRESENT: His Worship the Mayor, Councillor Pynsent (in the Chair)
Councillor Dunn
Councillor Lyons
Councillor Sander
Councillor Stapleford

INVITEES: Nil

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IN ATTENDANCE: Councillor Fitzgibbon
Mr Fitzpatrick-Barr, Director Works & Infrastructure
Mrs Kerr, Infrastructure Manager

APOLOGIES

Nil

ACKNOWLEDGEMENT OF COUNTRY

Nil

OFFICER'S REPORTS

REPORT NO. URCOR3/2018
SUBJECT: TERMS OF REFERENCE
REFERENCE:

MATTER: The newly formed Committee requires Terms of Reference to function well.

DISCUSSION: The draft Terms of Reference were briefly reviewed:

- Agreed to accept draft, updated with regularity of meetings to be held quarterly (preferably either side of Agenda Review meeting on a Friday afternoon).

RECOMMENDATION

That Council note the Committee's endorsement of the updated Terms of Reference for the Unsealed Roads Committee.

MOTION: **Moved:** Councillor Stapleford **Seconded:** Councillor Dunn

SUPPORT: Unanimous

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REPORT NO. **URCOR2/2018**

SUBJECT: **EXISTING POLICIES RELATING TO UNSEALED ROADS**

REFERENCE:

MATTER: There have been past as well as a current existing policies.

DISCUSSION: The background of previous and existing policies was discussed. The length of unsealed roads and the costs associated with sealing and funding were discussed, and street lights were briefly discussed.

RECOMMENDATION

- That Council note the status of Council's existing policies relating to unsealed roads.
- That the General Manager prepare a report on prioritising the sealing of urban unsealed roads, setting out criteria including length of road, cost, benefit, usage, and traffic volume.
- That the General Manager examine ways of funding the prioritised sealing of urban unsealed roads.
- That the General Manager investigate why some roads in Millview Estate are only partly sealed.
- That the General Manager prepare suitable engagement material regarding the resealing of sealed roads.
- That the General Manager investigate road conditions at the school bus stop on Wollombi Road adjacent to Brown Street, Bellbird.

MOTION: **Moved:** Councillor Sander **Seconded:** Councillor Lyons

SUPPORT: **Unanimous**

CLOSURE: The Meeting was declared closed at 4.31pm

ENCLOSURES

[1](#) URCOR3/2018 - Terms of Reference

SUBJECT: *MINUTES OF THE LOCAL TRAFFIC COMMITTEE
18 FEBRUARY 2019*

RESPONSIBLE OFFICER: *Infrastructure Manager - Katrina Kerr*

RECOMMENDATION

That the Minutes of the Local Traffic Committee of 18 February 2019 be adopted as a resolution of the Ordinary Council being:

1. **TC1/2019** - That Council authorise the temporary regulation of traffic for the Kurri Kurri Nostalgia Festival event in accordance with Various Roads Kurri Kurri _ Nostalgia Festival TCPs.
2. **TC2/2019** - That Council install regulatory parking signage on the Mount View High School service road off Mount View Road, Cessnock, in accordance with the Mount View Road Cessnock _ Signage Diagram.
3. **TC3/2019** - That Council authorise installation of road signage and pavement marking on Avery's Lane, Heddon Greta in accordance with the Avery's Lane Heddon Greta _ Signage & Line Marking Diagram.
4. **TC4/2019** - That Council install regulatory parking signage and line marking on Lang Street, Kurri Kurri in accordance with Lang Street Kurri Kurri _ Signage & Line Marking Diagram Option 1.
5. **TC5/2019** - That Council note removal of existing load limits applied to:
 1. Neath Road, Neath, following replacement of the damaged culvert.
 2. Sandy Creek Road, Quorrobolong, following review of the culvert condition.
 3. High Street, Greta, due to changes in traffic flow.
6. **TC6/2019** - That Council install regulatory parking signage on Vincent Street, Cessnock, in accordance with the Vincent Street Cessnock _ Signage Diagram.
7. **TC7/2019** - That Council install regulatory parking signage and line marking on Lang Street, Kurri Kurri in accordance with Barton Street Kurri Kurri _ Signage & Line Marking Diagram.

DIRECTOR'S COMMENTARY

In response to a recent enquiry relating to the validity of Local Traffic Committee Minutes in a situation where the seconder of a recommendation wasn't present at the meeting, Council officers have investigated the required procedures for exercising Council's delegation from Roads and Maritime Services (RMS) and the following information is provided for Council's consideration with respect to the general procedures of the Committee:

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Voting:

Council has historically adopted the process of moving and seconding recommendations on Local Traffic Committee agenda matters, in line with other Committees of Council.

The Local Traffic Committee (LTC) is not a 'Committee of Council' within the meaning of the *Local Government Act 1993* or the *Local Government (General) Regulation 2005* and is not constrained by the normal meeting rules applying to Committees of Council.

Under the Roads and Maritime Services (RMS) guidelines for the operation of Traffic Committees, there is no requirement for a matter to be moved or seconded. The matter is presented to the Committee by a Council officer for consideration by the four formal voting members, who then vote to support or decline recommending the matter to Council.

Council is not bound by the advice given by its LTC. However if Council does wish to act contrary to the unanimous advice of the LTC or when the advice is not unanimous, it must notify Roads and Maritime Services & the NSW Police and wait 14 days before proceeding.

Quorums:

A quorum is not required, however technical reports and recommendations must be considered by the four formal members and comments with the results of individual technical review provided for tabling prior to the meeting, or subsequently for inclusion in the Minutes.

Acceptable alternative meeting formats include:

- Electronic meetings – where the advice of the members is sought via email or telephone/video conferencing. This allows items to be considered as they arise and may reduce response time.
- A combination of electronic (for minor issues) and face-to-face meetings. This allows minor issues to be addressed between meetings. The response time for minor issues may be reduced using this format and this format can result in shorter face to face meetings. It may even be possible to increase the interval between meetings.

Given the above advice, the 18 February 2019 Local Traffic Committee meeting that was presided by the alternate chair (Councillor Lyons) operated under these rules and was conducted accordingly.

The next meeting of the Local Traffic Committee of 18 March 2019 will include a report on this matter, being report No.TC14/2019 – Local Traffic Committee Terms of Reference.

***MINUTES OF CESSNOCK LOCAL TRAFFIC COMMITTEE MEETING HELD IN ANTE
ROOM ON MONDAY, 18 FEBRUARY 2019, COMMENCING AT 9.30AM***

OPENING: The meeting was opened at 9.36am

PRESENT: Councillor Lyons (in the Chair)
Ms Perri Hodge, NSW State Member Representative
Mr Nicholas Trajcevski, Roads & Maritime Services

IN ATTENDANCE: Ms Jules Bosco, Principal Development Engineer
Mr Nathan Goodbun, Traffic Engineering Officer
Mr Richard Ingall, Rover Coaches
Mr Warren Jeffery, Road Safety Officer
Mrs Katrina Kerr, Infrastructure Manager

APOLOGIES

RESOLVED that apologies tendered, for unavoidable absence, be accepted on behalf of:

Mr Clayton Barr MP, NSW State Member
Councillor Gray, Ward D Councillor
Senior Constable Amy Sweeney, NSW Police

CONFIRMATION OF MINUTES

NOTED that the Minutes of the Local Traffic Committee held on 17 December 2018, as circulated, were previously confirmed as a true and correct record.

DISCLOSURES OF INTEREST

NIL

BUSINESS ARISING FROM PREVIOUS MINUTES

NIL

Works and Infrastructure

Report No. WI15/2019

Works and Infrastructure



LISTED MATTERS

SUBJECT: *VARIOUS ROADS, KURRI KURRI
TEMPORARY REGULATION OF TRAFFIC - NOSTALGIA FESTIVAL*

REPORT NO.: *TC1/2019*

REFERENCE.: *45 2018 10*

MATTER: Council has received an application for the temporary regulation of traffic in connection with an existing development consent for the Kurri Kurri Nostalgia Festival, and has assessed the application along with the associated Traffic Management Plan (TMP) and Traffic Control Plans (TCPs).

Approval is sought from Roads & Maritime Services (RMS) under Section 116 of the *Roads Act 1993*, to regulate traffic on various roads in Kurri Kurri in connection with this consent.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- It was noted that approval conditions would include the provision of temporary bus stops on each side of Rawson Street at Hampden Street and Victoria Street, and for parking marshals to monitor and manage these locations.

RECOMMENDATION

That Council authorise the temporary regulation of traffic for the Kurri Kurri Nostalgia Festival event in accordance with Various Roads Kurri Kurri _ Nostalgia Festival TCPs, provided as Attachment TC1/2019.

SUPPORT: **Unanimous**

Works and Infrastructure

Report No. WI15/2019

Works and Infrastructure



SUBJECT: *MOUNT VIEW ROAD, CESSNOCK
REGULATORY PARKING*

REPORT NO.: *TC2/2019*

REFERENCE.: *DOC2019/004102*

MATTER: During a recent inspection of the Council owned car park adjacent Mount View High School, off Mount View Road, Cessnock, Council officers observed a sign posted BUS ZONE which is used as a bus layover, rather than a bus passenger pick-up and set-down area.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- It was requested by Rover Coaches that the afternoon time restriction be amended to 2pm to 4pm to cater for varying school finish times depending on the day of the week,
- It was also requested by Rover Coaches to relocate the Bus Zone sign at the eastern end of the existing bus zone 7m to the east to address increased bus lengths, and existing passenger loading points,
- It was noted that the existing loading points no longer match the buses used. It was advised that the loading infrastructure is on Department of Education property, rather than within the road reserve,
- It was noted that recent maintenance works had been completed in the car park, including repairs to wheel stops, tree trimming, and repainting of traffic islands,
- The RMS representative confirmed the existing school zone would not be shortened due to the high usage rate of a pedestrian refuge on the eastern end of the school zone, and prohibitive cost,
- The RMS representative requested that an amended signage plan, reflecting the changes noted above, be included with the minutes.

RECOMMENDATION

That Council install regulatory parking signage on the Mount View High School service road off Mount View Road, Cessnock, in accordance with the Mount View Road Cessnock _ Signage Diagram provided as Attachment TC2/2019.

SUPPORT: *Unanimous*

Works and Infrastructure

Report No. WI15/2019

Works and Infrastructure



SUBJECT: *AVERYS LANE, HEDDON GRETA
SIGNAGE AND LINE MARKING*

REPORT NO.: *TC3/2019*

REFERENCE.: *CC 10/2016/116*

MATTER: The approved subdivision and development of Lots 15 and 16 DP11826 on Avery's Lane, Heddon Greta requires formalised access, which will be by means of a new road labelled "Road 1" in Enclosure 1. The matter was previously considered by the Committee as TC32/2018, with a recommendation of deferment, pending modifications to the plan.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- It was noted that the 2 power poles currently within the paved road surface will be removed prior to Council approval to undertake further works,
- The RMS representative advised that the warrant for 'Keep Clear' pavement markings is not met, and that the G9-237 'DO NOT QUEUE ACROSS INTERSECTION' sign was a suitable alternative treatment,
- It was noted that the RMS representative had previously discussed the inclusion of a pedestrian refuge on Road 1, at the intersection of Avery's Lane. Investigations found that there is insufficient road width on Road 1 to install a pedestrian refuge.

RECOMMENDATION

That Council authorise installation of road signage and pavement marking on Avery's Lane, Heddon Greta in accordance with the Avery's Lane Heddon Greta _ Signage & Line Marking Diagram provided as Attachment TC3/2019.

SUPPORT: *Unanimous*

Works and Infrastructure
Report No. WI15/2019
Works and Infrastructure



SUBJECT: *LANG STREET, KURRI KURRI
REGULATORY PARKING*

REPORT NO.: *TC4/2019*

REFERENCE.:

MATTER: A member of the Kurri Kurri business community recently raised an issue with parking spaces on approach to pedestrian crossings in Lang Street Kurri Kurri. Council officers conducted an audit of these parking spaces, and identified one space that is non-complaint with the relevant Roads & Maritime Services (RMS) Technical Direction.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- The two options were discussed, with the Committee supporting Option 1.

RECOMMENDATION

That Council install regulatory parking signage and line marking on Lang Street, Kurri Kurri in accordance with Lang Street Kurri Kurri _ Signage & Line Marking Diagram Option 1, provided as Attachment TC4/2019.

SUPPORT: Unanimous

SUBJECT: *VARIOUS ROADS, CESSNOCK LGA
REMOVAL OF LOAD LIMIT*

REPORT NO.: *TC5/2019*

REFERENCE.: *DOC2018/019088*

MATTER: Recent upgrades and investigations at Neath, Quorrobolong, and Greta, have resulted in the ability to remove the previously applied load limits.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- It was noted that the above changes would take effect upon completion of advertising and stakeholder notifications.

RECOMMENDATION

That Council note removal of existing load limits applied to:

1. Neath Road, Neath, following replacement of the damaged culvert.
2. Sandy Creek Road, Quorrobolong, following review of the culvert condition.
3. High Street, Greta, due to changes in traffic flow.

SUPPORT: Unanimous

Works and Infrastructure
Report No. WI15/2019
Works and Infrastructure



SUBJECT: VINCENT STREET, CESSNOCK
NO STOPPING SIGNAGE

REPORT NO.: TC6/2019

REFERENCE.: DOC2019/009504

MATTER: The Rover Coaches Work Health and Safety Manager raised concerns that vehicles parked on the eastern side of Vincent Street, Cessnock, on the south eastern corner of the intersection of Vincent Street and Aberdare Road, leave insufficient room for bus left turn movements from Aberdare Road onto Vincent Street.

An inspection on 19 March 2018 conducted by Council's Road Safety Officer, Traffic Engineering Officer, the Roads & Maritime Services (RMS) representative, and Rover Coaches Work Health and Safety Manager, identified that the NO STOPPING sign at this location was located within the 20m clearance required by the relevant RMS Technical Direction.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- It was noted that the adjacent business premises is currently vacant, and other surrounding businesses provide off-street parking for customers.

RECOMMENDATION

That Council install regulatory parking signage on Vincent Street, Cessnock, in accordance with the Vincent Street Cessnock _ Signage Diagram, provided as Attachment TC6/2019.

SUPPORT: Unanimous

Works and Infrastructure
Report No. WI15/2019
Works and Infrastructure



SUBJECT: *BARTON STREET, KURRI KURRI
REGULATORY PARKING*

REPORT NO.: *TC7/2019*

REFERENCE.:

MATTER: The relocation of Centrelink to 174 Barton Street, Kurri Kurri occurred without provision of mobility parking scheme spaces.

Given that many clients of Centrelink have genuine clinically recognisable disabilities, there is a definite need for Mobility Parking Scheme spaces in the immediate vicinity of the premises and members of the community have also requested the provision of same.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- It was noted that Centrelink are currently negotiating lease renewal at the site. Works will only be undertaken if the lease for the premises is continued, as there are no other specific trip generators at the location in question.

RECOMMENDATION

That Council install regulatory parking signage and line marking on Lang Street, Kurri Kurri in accordance with Barton Street Kurri Kurri _ Signage & Line Marking Diagram, provided as Attachment TC7/2019.

SUPPORT: Unanimous

CORRESPONDENCE

NIL

GENERAL BUSINESS

1. DISABLED PARKING - COOPER STREET, CESSNOCK

NOTED that Cooper Street Cessnock, adjacent the podiatrist, is not amenable to the installation of compliant disabled parking due to the excessive grade.

2. LINE MARKING - CHURCH STREET, CESSNOCK

NOTED that Church Street Cessnock, adjacent the North End Hall, has been resurfaced, and is not currently line marked. A member of public has expressed concerns over the lack of line marking. The process for submitting a customer request was outlined.

Works and Infrastructure

Report No. WI15/2019

Works and Infrastructure



3. ROAD CONDITION – CESSNOCK & GOVERNMENT ROADS, WESTON

NOTED that the road condition (pavement failure) has been identified, and has been referred to Works & Operations for consideration.

CLOSURE: The Meeting was declared closed at 10.35am

NSW POLICE TECHNICAL REVIEW

Following the meeting, the NSW Police representative provided individual technical review of the reports on the Listed Matters and provided support for the recommendations.

ENCLOSURES

- [1](#) ➡ TC01 2019 - Various Roads Kurri Kurri - Temporary Regulation of Traffic - Nostalgia Festival
- [2](#) ➡ TC02 2019 - Mount View Road Cessnock - Regulatory Parking
- [3](#) ➡ TC03 2019 - Averys Lane heddon Greta - Signage and line marking
- [4](#) ➡ TC04 2019 - Lang Street Kurri Kurri - Signage & Line marking diagram
- [5](#) ➡ TC04 2019 - Lang Street Kurri Kurri - Signage & Line marking Diagram
- [6](#) ➡ TC05 2019 - High Street Greta _ load limit removal
- [7](#) ➡ TC05 2019 - Neath Road Neath - Load limit removal
- [8](#) ➡ TC05 2019 - Sandy Creek Road Quorrobolong - Load liit removal
- [9](#) ➡ TC06 2019 - Local Traffic Committee - Inspection Handouts
- [1](#) ➡ TC06 2019 - Vincent Street Cessnock - Signage Diagram
- [0](#)
- [1](#) ➡ TC07 2019 - Barton Street Kurri Kurri - Signage & Line Marking Diagram
- [1](#)

SUBJECT: *NOTES OF THE INQUORATE FLOODPLAIN MANAGEMENT COMMITTEE HELD 1 MARCH 2019*

RESPONSIBLE OFFICER: *Infrastructure Manager - Katrina Kerr*

RECOMMENDATION:

1. That Council receives the notes of the inquorate Floodplain Management Committee meeting held 1 March 2019.
2. FLOCLM1/2019 - That Council adopt the updated Terms of Reference for the Floodplain Management Committee in relation to the date change from Friday at 9.00am to Wednesday at 9.00am
3. FLOCLM2/2019 – That Council note the status of the implementation of the Wollombi Flood Warning System.
4. FLOCLM3/2019 – That Council note endorsement of the outcomes of the Greta Flood Study, February 2019 by WMA Water by the inquorate Flood Management Committee.
5. FLOCLM3/2019 – That Council adopt the Greta Flood Study, February 2019 by WMA Water.
6. FLOCLM3/2019 - That the General Manager update relevant flood mapping and associated property notifications for flood related development controls, planning certificates and flood certificates within the Greta Flood Study area.
7. FLOCLM3/2019 - That the General Manager update the flood analysis for the Western Catchment as part of a future Floodplain Risk Management Study when suitable grant funding is available.
8. FLOCLM4/2019 - That Council note the endorsement of the outcomes of the Wallis and Swamp-Fishery Creek Flood Study, February 2019 by WMA Water by the inquorate Flood Management Committee.
9. FLOCLM4/2019 - That Council adopt the Wallis and Swamp-Fishery Creek Flood Study, February 2019 by WMA Water.
10. FLOCLM4/2019 - That the General Manager update relevant flood mapping and associated property notifications for flood related development controls, planning certificates and flood certificates within the Wallis and Swamp-Fishery Creek Flood Study area.
11. FLOCLM5/2019 - That Council note the status of the design of the South Cessnock Bund Wall Scheme.

Works and Infrastructure

Report No. WI16/2019

Works and Infrastructure



12. **FLOCLM6/2019 - That Council note the status of the Cessnock, and Abermain & Weston Flood Warning Systems.**

DIRECTOR'S COMMENTARY

The Floodplain Management Committee forms a part of the Floodplain Management Process described in the State Government's Floodplain Development Manual 2005. The Committee is advisory in nature and supports the consultation and technical advice to Council as it implements its Floodplain Management Program. The acceptance and adoption of matters from the Committee is at the discretion of Council and Council may, adopt relevant flood studies and management plans without the concurrence of the Committee.

The meeting of the Floodplain Management Committee held on 1 March 2019 did not achieve a quorum due to the unexpected late receipt of an apology from a member. Given the number of the Committee members in attendance and the matters on the agenda, the meeting did proceed on an informal basis.

Members were in agreement with this approach on the day of the meeting and this process was subsequently confirmed with the Office of Environment and Heritage representative.

This report summarises the topics discussed and reports for Council's consideration the items below.

***NOTES OF THE FLOODPLAIN MANAGEMENT COMMITTEE MEETING OF
CESSNOCK CITY COUNCIL HELD IN ANTE ROOM ON FRIDAY, 1 MARCH 2019,
COMMENCING AT 9.00AM***

OPENING: Meeting opened 9.04am

PRESENT: The Mayor, Councillor Pynsent (In the Chair)
Councillor Dunn
Ms Angela Halcrow, Office of Environment and Heritage
Mr Tom Jory, Regional SES (via telephone)

IN ATTENDANCE: Mr Gareth Curtis, Director Planning & Environment
Mr Martin Johnson, Strategic Planning Manager
Mrs Katrina Kerr, Infrastructure Manager
Mr Tim Meaker, Project Engineer

INVITEES: Nil

APOLOGIES

Resolved that the apologies tendered for unavoidable absence be accepted on behalf of:

Councillor Gray
Councillor Lyons
Mr Craig Schulz of Cessnock
Mr Adam Davies of Kurri Kurri

Noted that a quorum could not be obtained due to the lack of voting members in attendance.

Agreed that the Meeting would proceed inquorate and that notes from the informal discussion regarding items on the meeting agenda would be prepared and reported to the Council with relevant recommendations from Council officers.

ACKNOWLEDGEMENT OF COUNTRY

Nil.

CONFIRMATION OF MINUTES

Noted that the Minutes of the Floodplain Management Committee held on 1 March 2019, as circulated, were previously confirmed as a true and correct record.

BUSINESS ARISING FROM THE MINUTES

Nil.

Works and Infrastructure

Report No. WI16/2019

Works and Infrastructure



LISTED MATTERS

REPORT NO. FLOCLM1/2019

SUBJECT: TERMS OF REFERENCE

MATTER: A request to change the day of the meetings from a Friday as set out in the Floodplain Management Committee Terms of Reference (TOR).

DISCUSSION: The matter was described as per the report, and discussed as follows:

- Noted that Mr Adam Davies, Community Representative proposed via email that future meetings be held outside office hours.
- Agreed to update the TOR at Section 5 – Meetings and Quorum to accept a change to the day of meetings so as to be held in future at 9.00am on Wednesday mornings.

FOR COUNCIL'S CONSIDERATION

That Council note the update to the Terms of Reference for the Floodplain Management Committee.

Works and Infrastructure

Report No. WI16/2019

Works and Infrastructure



REPORT NO. **FLOCLM2/2019**

SUBJECT: **UPDATE ON WOLLOMBI FLOOD WARNING SYSTEM**

MATTER: The design and installation of the Wollombi Flood Warning System is in progress.

DISCUSSION: The matter was described as per the report, and discussed as follows:

- Noted that consultation is required with SES regarding flood classification associated with the flood warning hierarchy.
- Noted that site inspections were carried out with Council and WaterNSW at water level gauge locations.
- Noted that safe access will be considered in the placement of the gauge along Paynes Crossing Road at Wollombi. Construction of a parking and maintenance platform may be required.
- Noted that the SES representative highlighted the need for consultation on content and dissemination of community information regarding the flood warning system as the project progresses.

FOR COUNCIL'S CONSIDERATION

That Council note the status of the implementation of the Wollombi Flood Warning System.

Works and Infrastructure

Report No. WI16/2019

Works and Infrastructure



REPORT NO. *FLOCLM3/2019*

SUBJECT: *FINALISATION OF GRETA FLOOD STUDY*

MATTER: The draft Greta Flood Study has been public exhibited and finalised.

DISCUSSION: The Final Study was tabled and described as per the report and discussed as follows:

- Noted that one submission received highlighting issues associated with the Western Catchment and that these issues can be investigated as part of the future Floodplain Risk Management Study.
- Noted that the Final Flood Study report has been updated with consideration to the flood situation in the Western Catchment.
- Noted that planning or development applications will be required to carry out site specific flood investigations to inform any future flood constraints on development.
- Noted that pre-planning has commenced so that properties identified as flood control lots can be updated with appropriate Planning Certificate information when the Flood Study is adopted.

FOR COUNCIL'S CONSIDERATION

1. That Council note endorsement of the outcomes of the Greta Flood Study, February 2019 by WMA Water by the inquorate Flood Management Committee.
2. That Council adopt the Greta Flood Study, February 2019 by WMA Water.
3. That the General Manager update relevant flood mapping and associated property notifications for flood related development controls, planning certificates and flood certificates within the Greta Flood Study area.
4. That the General Manager update the flood analysis for the Western Catchment as part of a future Floodplain Risk Management Study when suitable grant funding is available.

Works and Infrastructure

Report No. WI16/2019

Works and Infrastructure



REPORT NO. FLOCLM4/2019

SUBJECT: FINALISATION OF THE WALLIS AND SWAMP FISHERY CREEK
FLOOD STUDY

MATTER: The draft Wallis and Swamp Fishery Creek Flood Study has been public exhibited and finalized.

DISCUSSION: The Final Study was tabled and described as per the report and discussed as follows:

- Noted that no submissions were received during the public exhibition period.
- Noted that the Flood Study will support land-use planning across the Loxford, Cliftleigh and Testers Hollows area.
- Noted that pre-planning has commenced so that properties identified as flood control lots can be updated with appropriate Planning Certificate information when the Flood Study is adopted.

FOR COUNCIL'S CONSIDERATION

1. That Council note the endorsement of the outcomes of the Wallis and Swamp-Fishery Creek Flood Study, February 2019 by WMA Water by the inquorate Flood Management Committee.
2. That Council adopt the Wallis and Swamp-Fishery Creek Flood Study, February 2019 by WMA Water.
3. That the General Manager update relevant flood mapping and associated property notifications for flood related development controls, planning certificates and flood certificates within the Wallis and Swamp-Fishery Creek Flood Study area.

Works and Infrastructure

Report No. WI16/2019

Works and Infrastructure



REPORT NO. FLOCLM5/2019

SUBJECT: UPDATE ON DESIGN OF SOUTH CESSNOCK BUND WALL SCHEME

MATTER: Investigations and design for a bund wall have been progressed.

DISCUSSION: The matter was described as per the report and discussed as follows:

- Noted that Council has been pursuing a mine subsidence claim with Subsidence NSW regarding historical subsidence in South Cessnock.
- Noted that following Council's representation on behalf of the residents in the South Cessnock Area and subsequent representation to the Minister for Finance, Services and Property, Subsidence NSW requested relevant information with regard to the flooding and mine subsidence issues.
- Noted that Subsidence NSW requested all relevant documents and information in relation to the mine subsidence issues and that Council has provided a substantial suit of background documents and information for review. It is understood that Subsidence NSW are also reviewing flood modelling associated with the area. Council is awaiting a reply.
- Noted that issues have arisen with access to land which may impact the location and design of the bund wall.

FOR COUNCIL'S CONSIDERATION

That Council note the status of the design of the South Cessnock Bund Wall Scheme.

REPORT NO. FLOCLM6/2019

SUBJECT: UPDATE ON CESSNOCK, AND ABERMAIN & WESTON FLOOD WARNING SYSTEMS

MATTER: Investigations and design for flood warning systems been progressed.

DISCUSSION: The matter was described as per the report and discussed as follows:

- Noted that updated flood modelling has been completed based on ARR 2016 hydrology.
- Noted that the updated modelling is suitable for use as part of the Flood Warning System analysis, however it will not be used to update the current Black Creek Flood Model for broader floodplain planning and development purposes as the updated model has not had the necessary sensitivity and calibration rigour applied. This will be undertaken when a full review of the Flood Study is carried out.

FOR COUNCIL'S CONSIDERATION

That Council note the status of the Cessnock, Abermain & Weston Flood Warning Systems.

CORRESPONDENCE

Nil.

GENERAL BUSINESS

1.1 SES RESTRUCTURE

Mr Tom Jury, SES Representative advised that SES are currently finalising a major organisational restructure and he is now working from another area. There is currently a resource gap in the Planning and Preparedness area within the Hunter Region. When the role is filled, a new representative will be appointed to the Committee.

The Mayor thanked Mr Jury for his time working with and support of the Committee.

CLOSURE: The Meeting was declared closed at 9.46am

ENCLOSURES

- 1 ➡ Terms of Reference
- 2 ➡ Wallis and Swamp Creek Fishery Flood Study Feb 2019 Vol 1 - Copy available via Council's website
- 3 ➡ Wallis and Swamp Creek Fishery Flood Study Feb 2019 Vol 2 - Copy available via Council's website
- 4 ➡ Greta Flood Study Vol 1 - Copy available via Council's website
- 5 ➡ Greta Flood Study Vol 2 - Copy available via Council's website

Notices Of Motion

Report No. BN5/2019

General Manager's Unit



NOTICES OF MOTION No. BN5/2019

SUBJECT: *POLICY - RATES SUBSIDY TO COMMUNITY ORGANISATIONS*

COUNCILLOR: *John Fagg Paul Dunn*

MOTION

1. That the General Manager undertake a review of the Policy "Rates Subsidy to Community Organisations".
2. That a report be prepared for consideration by Council at the meeting of 17 April 2019 with a view of providing:
 - a. draft assessment criteria for determining an organisation's eligibility for a subsidy up to the value of 50%.
 - b. a mechanism for an annual review of existing recipients and receipt of new applicants being undertaken in the month of March to allow for approval consideration for the financial year following.
 - c. a communication protocol for current organisations included in the current Policy to be advised of any revision of the Policy which would be applied to all rates subsidies commencing 1 July 2020.

It is my intention to move the above motion at the next Ordinary Meeting of Council on 20 March 2019.

RATIONALE

The Policy *Rates Subsidy to Community Organisations* does not currently provide for a systematic review or evaluation of the organisations provided with the subsidy, outside of the review schedule for re-endorsement of the Policy itself by Council. The Policy does not include any criteria in regards to eligibility, nor require organisations to re-apply and justified their inclusion for continued receipt of the subsidy.

With the Policy currently providing subsidies of over \$42,000 each year, it is prudent for the General Manager to undertake a review of the policy and provide a report for Council to consider an update to the Policy. This report should include, as a minimum:

- criteria for eligibility
- alternatives for regular and systematic application/review process (eg. annually, every 2 years or once each term of Council)
- provision of financial statements
- the logistical impacts of an ongoing application process
- how any proposed changes would be advised to the public and the organisations currently receiving the subsidy.

Notices Of Motion

Report No. BN5/2019

General Manager's Unit



This proposal is not aimed at removing the provision of the Subsidy, which in some cases, could be vital for the operations of the community groups or not for profit entity. Rather it is about ensuring that Council remains mindful of its financial sustainability and ensures that such provision of a ratepayer funded subsidy is only provided to those groups with a community focus and not inadvertently provided, without review, and that those who receive the subsidy justify to Council their ongoing eligibility for the subsidy.

Sgd: John Fagg

Date: 12 March 2019

ENCLOSURES

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ23/2019

Planning and Environment



SUBJECT: *MAINTENANCE OF PRIVATE CAR PARKS*

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

Q8/2019 – Maintenance of Private Car Parks

Asked by Councillor Lyons at the Ordinary Meeting of Council held on 20 February 2018.

“if Council can encourage the owners of private car parks to maintain them to a safe standard?”

In the event a private car park has been the subject of a development approval issued by Council, there may be an opportunity to enforce maintenance of the car park, however this is dependent upon the conditions of consent imposed on a notice of determination.

For example, in the event Council officers issue an approval for construction of a development that incorporates a car parking area, a condition of consent is routinely imposed requiring such car park to be maintained to a satisfactory standard, in perpetuity i.e., for the life of the development.

Notwithstanding the above, the imposition of this type of condition is relatively recent, and older development consents issued by Council did not usually include a condition of this nature.

In the event an existing private carpark, without a condition of consent relating to maintenance, is not being maintained in a ‘safe’ or ‘healthy’ condition, there are orders provisions under the *Local Government Act 1993* which may apply. However, voluntary compliance would first be sought from the owner before any enforcement action would be taken.

ENCLOSURES

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ24/2019

Works and Infrastructure



SUBJECT: *ROTARY PARK KURRI KURRI*

RESPONSIBLE OFFICER: *Open Space and Community Facilities Manager - Nicole Benson*

Q12/2019 - Rotary Park Kurri Kurri

Asked by Councillor Doherty at the Ordinary Meeting of Council held on 6 March 2019

“asked why would Council employees dig up a large patch of grass in Rotary Park in Kurri Kurri and resurface with brand new turf in the middle of a drought and only three weeks out from the Nostalgia Festival”.

Rotary Park is irrigated and therefore not affected by drought. The area was regenerated in preparation for the Nostalgia Festival. There was no turf in that particular location and after fertiliser and water applications that did not yield a suitable result it was decided to lay new turf. The rationale was to improve safety, minimise dust and / or mud and to improve the appearance of the park for the Nostalgia festival. Council’s qualified green keeping staff are confident that the area will be ready for the festival.

ENCLOSURES

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ25/2019

Works and Infrastructure



SUBJECT: *STATE MEMBER \$8M FOR ROAD WORK BACKLOG*

RESPONSIBLE OFFICER: *Infrastructure Manager - Katrina Kerr*

Q13/2019 - State Member \$8m for Road Work Backlog

Asked by Councillor Olsen at the Ordinary Meeting of Council held on 6 March 2019.

“referred to the announcement from the State Member that \$8m would be available to help fix the \$16m backlog of roads and asked for a list of the \$16m of works and how it is prioritised”.

As part of Council's asset management and financial reporting requirements, a revaluation of roads was undertaken in 2015. The revaluation process provided an updated inventory and condition assessment of all Council owned roads.

The condition assessment was derived from multiple pavement and surface defects and conditions including rutting, cracking and roughness. The overall condition rating assigned was a factor of the multiple defects and conditions.

The result reported a backlog of road renewal valued at approx. \$16M. The backlog is ordered in priority according to the poorest condition road segments rather than lengths of entire roads.

The list of road segments that make up the \$16M backlog is extensive. The total data set in hard copy equates to a significant number of pages (A4) which is difficult to read and may be difficult to decipher.

For ease of reading, a pdf version of the data from Council's corporate asset management system has been made available on The Hub. This information is from the same data dump previously provided to Councillors by way of an All Councillors memo on 9 February 2017.

ENCLOSURES

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ26/2019

Works and Infrastructure



SUBJECT: COUNCIL MEMBERSHIPS

RESPONSIBLE OFFICER: Infrastructure Manager - Katrina Kerr

Q14/2019 - Council Memberships

Asked by Councillor Olsen at the Ordinary Meeting of Council held on 6 March 2019.

“referred to his previous question regarding Council memberships and asked why we are not a mentioned on the Sydney Regional Organisation of Councils Street Lighting website as a member”.

Cessnock City Council is a member of the Southern Sydney Region of Councils Street Lighting Improvement Program.

Southern Sydney Region of Councils (SSROC) established and oversees the Street Lighting Improvement Program to implement the recommendations of an extensive review of street lighting undertaken by its members. There are currently 30 councils participating in the Program, ranging from Southern Sydney through to the Central Coast and Hunter, including Cessnock.

The SSROC web site does not list the 30 councils participating in the Street Lighting Improvement Program. The SSROC web site does however list alphabetically the 11 “Member Councils” of SSROC from Bayside Council to Woollahra Municipal Council.

ENCLOSURES

There are no enclosures for this report

Answers To Questions For Next Meeting

Report No. AQ27/2019

Works and Infrastructure



SUBJECT: *KURRI KURRI NETBALL COURTS*

RESPONSIBLE OFFICER: *Open Space and Community Facilities Manager - Nicole Benson*

Q15/2019 - Kurri Kurri Netball Courts

Asked by Councillor Stapleford at the Ordinary Meeting of Council held on 6 March 2019.

"referred to Councillor Doherty's Notice of Motion and asked if an Engineer would be able to look at the courts and report back to Council".

A number of people will be involved in the investigations listed in BN3/2019, one of which will be an engineer. The information will be contained within the report in response to BN3/2019.

A report is also being provided for Council's consideration in April 2019.

ENCLOSURES

There are no enclosures for this report

Correspondence

Report No. CO5/2019

Corporate and Community Services



SUBJECT: *LOCAL GOVERNMENT NSW SAVE OUR RECYCLING CAMPAIGN*

RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

RECOMMENDATION

That the correspondence be noted.

At its Ordinary Meeting of 7 November 2018 Council considered a Mayoral Minute MM12/2018 – LG NSW Save Our Recycling Campaign and resolved (inter alia):

3. That Council write to the Premier, the Hon Gladys Berejiklian MP, the Opposition Leader, the Hon Luke Foley MP, the Minister for Local Government and the Minister for the Environment, the Hon Gabrielle Upton MP, and the Shadow Minister for the Environment and Heritage, Penny Sharpe MLC, seeking bipartisan support for the 100% reinvestment of the Waste Levy collected each year into waste minimisation, recycling and resource recovery.

A response has been received from Scott Farlow MLC, Parliamentary Secretary to the Premier, Leader of the House in the Legislative Council advising Council's correspondence has been forwarded to The Hon Gabrielle Upton MP, Minister for the Environment.

A copy of this correspondence is attached for Council's information.

ENCLOSURES

- [1](#) ⇨ Letter from Parliamentary Secretary to the Premier

Correspondence

Report No. CO6/2019

Corporate and Community Services



SUBJECT: *CESSNOCK CORRECTIONAL CENTRE ACCESS ROAD*

RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

RECOMMENDATION

That the correspondence be noted.

At its Ordinary Meeting of 20 February 2019 Council considered a Report GMU2/2019 - Cessnock Correctional Centre Access Road - Outcome of Meetings with the Member for Cessnock and community representatives of the Cessnock Correctional Centre Community Consultative Committee and resolved (inter alia):

1. That Council note the outcomes of the meeting held with the community members of the Cessnock Correctional Centre Community Consultative Committee regarding the road access to the Correctional Centre.
2. That Council note the meeting with the Member for Cessnock, Clayton Barr MP has been arranged for 9.00am Thursday morning 21 February 2019.
3. That Council restate its preferred option in regards to access to the Cessnock Correctional Centre being:
 - that the access to the Cessnock Correctional Centre at Lindsay Street/Mavis Street be closed
 - that a new access is created via direct route from Wine Country Drive onto land owned by Hunter New England Health through the land owned by Corrective Services NSW and the Cessnock Correctional Centre
 - that this position is predicated on the reduction of impact on local roads and that any access to the Correctional Facility, existing or new, should be via the State Road network.
4. That Council write to the Premier the Hon Gladys Berijiklian MP, the Minister for Corrections the Hon David Elliott MP, the Leader of the Opposition Michael Daley MP, the Member for Cessnock Clayton Barr MP, the Shadow Minister for Corrections Guy Zangari MP, candidates for the seat of Cessnock and the Cessnock Correctional Centre Community Consultative Committee in regards to access to the Cessnock Correctional Centre;
 - Advising Councils position on the access to the Correctional Centre.
 - Requesting a written response as to reasons why access to the Correctional Centre cannot be via a direct route from the Correctional Centre through State Government owned land onto Wine Country Drive.
 - Seeking a commitment from the both the Government and Opposition in support of Councils position on the access to the Correctional Centre.

Correspondence

Report No. CO6/2019

Corporate and Community Services



- 5. That a report come back to Council to the first Council meeting in March with the outcomes of the meetings and correspondence listed above.**

A response has been received from The Hon. Ernest Wong MLC Parliamentary Secretary on behalf of Michael Daley MP, Leader of the Opposition advising that Council's correspondence has been referred to the Shadow Minister for Corrections, Mr Guy Zangari MP for consideration and appropriate action.

A copy of this correspondence is attached for Council's information.

ENCLOSURES

- [1](#) ➡ Correspondence from Leader of the Opposition