



City of
Newcastle



CITY OF NEWCASTLE

Development Applications Committee

Councillors,

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

DATE: Tuesday 20 August 2019

TIME: Following the Public Voice Committee Meeting

VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

J Bath
Chief Executive Officer

**City Administration Centre
282 King Street
NEWCASTLE NSW 2300**

Tuesday 13 August 2019

Please note:

Meetings of City of Newcastle (CN) are webcast. CN accepts no liability for any defamatory, discriminatory or offensive remarks or gestures made during the meeting. Opinions expressed or statements made by participants are the opinions or statements of those individuals and do not imply any form of endorsement by the CN. Confidential meetings will not be webcast.

The electronic transmission is protected by copyright and owned by CN. No part may be copied or recorded or made available to others without the prior written consent of CN. Council may be required to disclose recordings where we are compelled to do so by court order, warrant or subpoena or under any legislation. Only the official minutes constitute an official record of the meeting.

Authorised media representatives are permitted to record meetings provided written notice has been lodged. A person may be expelled from a meeting for recording without notice. Recordings may only be used for the purpose of accuracy of reporting and are not for broadcast, or to be shared publicly. No recordings of any private third party conversations or comments of anyone within the Chamber are permitted.

DEVELOPMENT APPLICATIONS COMMITTEE
20 August 2019

CONTENTS

Item	Business	Page
APOLOGIES/LEAVE OF ABSENCE		
DECLARATIONS OF PECUNIARY / NON PECUNIARY INTEREST		
CONFIRMATION OF PREVIOUS MINUTES		
		3
	MINUTES - EXTRAORDINARY DEVELOPMENT APPLICATIONS COMMITTEE 25 JUNE 2019	3
DEVELOPMENT APPLICATIONS		
		7
ITEM-9	DAC 20/08/19 - DA2019/00348 - 282 KING STREET NEWCASTLE - TOURIST AND VISITOR ACCOMODATION (ADAPTIVE REUSE AS A BOUTIQUE HOTEL) ALTERATIONS & ADDITIONS AND SIGNAGE	7
ITEM-10	DAC 20/08/19 - DA2018/01498 - 20 DENISON STREET, NEWCASTLE WEST - DEMOLITIONS OF EXISTING STRUCTURES, ERECTION OF A 20 STOREY MIXED USE DEVELOPMENT	76
ITEM-11	DAC 20/08/19 - DA2017/01382 - 1 MEREWETHER STREET, NEWCASTLE - ERECTION OF NINE STOREY MIXED USE DEVELOPMENT WITH 48 RESIDENTIAL UNITS, TWO COMMERCIAL TENANCIES, ASSOCIATED CARPARKING AND LANDSCAPING	127

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

CONFIRMATION OF PREVIOUS MINUTES

**MINUTES - EXTRAORDINARY DEVELOPMENT APPLICATIONS
COMMITTEE 25 JUNE 2019**

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 190625 Extraordinary Development Applications Committee Minutes

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

CITY OF NEWCASTLE

Development Applications Committee Meeting 20 August 2019

Page 4

Attachment A

CITY OF NEWCASTLE

Minutes of the Extraordinary Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 25 June 2019 at 6.49pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn, K Elliott, J Mackenzie, A Robinson and E White.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), B Smith (Director Strategy and Engagement), F Leatham (Director People and Culture), K Liddell (Director Infrastructure and Property), A Murphy (Director City Wide Services), M Bisson (Manager Regulatory, Planning and Assessment), E Kolatchew (Manager Legal), A Jones (Chief Financial Officer), K Neveldsen (Interim Governance and Council Executive Support Coordinator), J Vescio (Executive Officer, Chief Executive Office), M Murray (Policy Officer, Lord Mayor's Office), D Mills (Media Officer), K Sullivan (Council Services/Minutes) and A Knowles (Council Services/Webcasting).

APOLOGIES

MOTION

Moved by Cr Byrne, seconded by Cr White

The apologies submitted on behalf of Councillors Luke, Rufo and Winney-Baartz be received and leave of absence granted.

**Carried
unanimously**

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Nil.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE MEETING 21 MAY 2019

MOTION

Moved by Cr Robinson, seconded by Cr Elliott

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

Carried

DEVELOPMENT APPLICATIONS

ITEM-6 EDAC 25/06/19 - DA2018/00851 - 2 PARNELL PLACE, NEWCASTLE EAST - ALTERATIONS AND ADDITIONS TO DWELLING

MOTION

Moved by Cr Church, seconded by Cr Robinson

- A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012, against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out; and
- B. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of NLEP 2012, against the development standard at Clause 4.4 FSR and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.4 and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out; and
- C. That DA2018/00851 for alterations and additions to dwelling at 2 Parnell Place Newcastle East be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Church, Duncan, Dunn, Elliott, Mackenzie, Robinson and White.

Against the Motion:

Nil.

Carried

ITEM-7 EDAC 25/06/19 - DA2016/00982.01 - 70 AND 72 BLUE GUM ROAD, JESMOND - MODIFICATION TO MULTIPLE DWELLING HOUSING (42 DWELLINGS)

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

- A. That the Development Applications Committee note the variation to the height of buildings development standard under NLEP 2012 and consider the variation to be justified;

CITY OF NEWCASTLE

- B. That DA2016/00982.01 to modify the approved development, by increasing the scale of the proposal in terms of height, changing the use from serviced apartments to dwellings and providing for six additional dwellings (ie. a total of 42 dwellings) at 70-72 Blue Gum Road Jesmond be approved and modified consent be granted, subject to compliance with the conditions set out in the Schedule of Conditions at **Attachment B**; and
- C. That those persons who made submissions be advised of Council's determination.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Church, Elliott, Mackenzie, Robinson and White.

Against the Motion: Nil.

Carried

ITEM-8 EDAC 25/06/19 - DA2018/00968 - 37 ALFRED STREET, NEWCASTLE EAST - ALTERATIONS AND ADDITIONS TO DWELLING

MOTION

Moved by Cr Robinson, seconded by Cr Clausen

- A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of NLEP 2012, against the development standard at Clause 4.4 FSR, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.4 and the objectives for development in the R3 Medium Density Residential zone in which the development is proposed to be carried out; and
- B. That DA2018/00968 for alterations and additions to a dwelling at 37 Alfred Street Newcastle East be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- C. That those persons who made submissions be advised of the City of Newcastle's (CN) determination.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Duncan and Robinson.

Against the Motion: Councillors Byrne, Church, Dunn, Elliott, Mackenzie and White.

Defeated

The meeting concluded at 7.04pm.

DEVELOPMENT APPLICATIONS

**ITEM-9 DAC 20/08/19 - DA2019/00348 - 282 KING STREET
NEWCASTLE - TOURIST AND VISITOR ACCOMODATION
(ADAPTIVE REUSE AS A BOUTIQUE HOTEL)
ALTERATIONS & ADDITIONS AND SIGNAGE**

**APPLICANT: GAG KINGLSEY PROPERTY COMPANY PTY
OWNER: GAG KINGLSEY PROPERTY COMPANY PTY
CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY,
PLANNING AND ASSESSMENT**

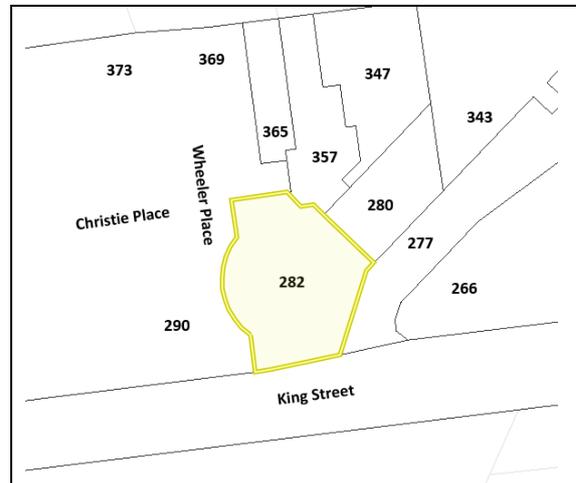
PART I

BACKGROUND

An application has been received seeking consent to undertake alterations and additions to the City Administration Centre (CAC) building at 282 King Street Newcastle and to use the building for hotel accommodation.

The submitted application is assigned to Senior Development Officer, Gordon Edgar for assessment.

The application is referred to the City of Newcastle's (CN) Development Applications Committee for determination as:



Subject Land: 282 King Street Newcastle

- (1) The construction value of the proposed development (\$25,056,000) exceeds the staff delegation limit of \$10M; and
- (2) Due to the proposed variation to the height of buildings development standard of the Newcastle Local Environmental Plan 2012 (NLEP 2012) being more than a 10% variation.

A copy of the plans for the proposed development is appended at **Attachment A**.

The proposed development was publicly notified in accordance with CN's public participation policy and one submission has been received in response.

The objector's concerns included:

- i Inadequate on-site parking

- ii Excessive building height
- iii Heritage impact
- iv Overshadowing of Civic Park

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

Issues

- 1) The proposed development does not comply with the height of buildings development standard of 30m under NLEP 2012. The maximum height of the proposed development is 44.52m, equating to a 48.4% variation to the development standard.
- 2) Design of the porte cochere in terms of its impact on pedestrian, vehicular and bicycle movements in and around the site and in King Street.
- 3) Heritage impact of the proposal on the heritage conservation area and heritage items in the vicinity (in particular, City Hall).
- 4) Proposed elliptical awning, noting that CN's Urban Design Consultative Group (UDCG) have raised concerns with this element of the proposal.
- 5) Proposed restaurant level addition set further back from the current outer edge of the building, as suggested by the UDCG.
- 6) Proposed signage, noting that the UDCG have raised concerns with this element of the proposal.
- 7) Proposed tree removal and planting.
- 8) On-site car parking shortfall of 25 car spaces (allowing for a historical deficiency).

Conclusion

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

Recommendation

- A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of NLEP 2012, against the development standard at Clause 4.3, Height of Buildings, and considers the objection to be justified in the circumstances and consistent with the objectives of Clause 4.3 and the objectives for development within the B3 Commercial Core zone in which the development is proposed to be carried out; and
- B. That DA2019/00348 for alterations and additions to a public administration building and use of the building as a boutique hotel at 282 King Street Newcastle be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B; and

- C. That permission be granted to the applicant to retain and display the existing Armorial Bearings of the City, above the revolving door entry to the CAC building, in order to reference the historic use of the building.
- D. That those persons who made submissions be advised of CN's determination.

Political Donation / Gift Declaration

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

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

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

PART II

1.0 THE SUBJECT SITE

The subject property is known as 282 King Street Newcastle, comprising of Lot 1 in DP 1250295. The site is an irregular-shaped parcel of land that currently incorporates CN's City Administration Centre (CAC) building and its immediate curtilage. It is located within the civic precinct of the city on the northern side of King Street, between Burwood Street and Wheeler Plaza.

The site has an area of 1,598m², with frontages of 25.1m to King Street, 28.6m to Burwood Street and 25.1m to Wheeler Plaza.

The site is relatively flat, with two mature street trees on the corner of Burwood Street and King Street. Civic Park lies to the south of the site with a pedestrian crossing connection across King Street, linking this park with pedestrianised spaces in Wheeler Plaza and Wheeler Place to the west and north of the site respectively. The entire unbuilt upon curtilage of the site is publicly accessible pedestrianised space.

The current CAC building is a seven-storey cylindrical-shaped public administration building over three levels of basement parking that accommodates 51 vehicles. The design of the building is late 20th century Brutalist style with strong external articulation. Construction of the building was completed in 1977.

The built environment near the site includes:

1. Newcastle City Hall - a state-listed heritage item, is located to the west of the site, on the opposite side of Wheeler Plaza. It is a three-storey stone-clad building with three main facades, to the south, east and western elevations. The building has a centrally located clock tower and a porte cochere with vehicular egress and exit off King Street. The architecture of the City Hall is Inter-War Academic Classical style.
2. Christie Place and Nesca House - located to the west of City Hall, are both state-listed heritage items. Nesca House is a five-storey Art Deco style building.
3. The Civic Theatre - a state-listed heritage item, is located to the north-west of the site. It is a two-storey rendered brick Georgian Revival style theatre building.
4. Wheeler Place - is a pedestrianised area, located to the north of the subject site and extending to Hunter Street.
5. The Bennett & Wood, Frederick Ash and Clarendon/Morpeth buildings - are located to the north of the site, with frontages to Hunter Street. The Frederick Ash Building is a state-listed heritage item, being a four-storey brick and timber commercial building in the Romanesque style.
6. Newcastle Courthouse - is a six-storey building located to the north-east of the site.
7. Commercial building (former tax office) - a nine-storey building, is located to the east of the site, on the opposite side of Burwood Street.
8. Civic Park - located to the south of the site, on the opposite side of King Street, is a local heritage item.
9. New Space University - is a nine-storey building located to the north-west of the site, on the corner of Hunter Street and Auckland Street.

The site is located within the Newcastle City Centre Heritage Conservation Area.

2.0 THE PROPOSAL

The applicant seeks consent to carry out alterations and additions to the CAC building to convert it into a boutique hotel to be known as the '*Kingsley*'. Key features of the proposed development include:

- (a) The change of the use of the building from a public administration building to hotel accommodation (ie a type of tourist and visitor accommodation), incorporating 130 accommodation rooms;

- (b) Internal and external alterations and additions to the building, including the construction of two additional levels, increasing the number of storeys from seven to nine. With respect to the proposed additional storeys, Level 8 is to contain a restaurant, bar and lounge and a private dining room and Level 9 is to contain plant/mechanical services;
- (c) A café at ground floor level, utilising the existing outdoor terrace, with a new stairway connecting the terrace to Wheeler Place and seating in Wheeler Place;
- (d) Use of the existing vehicular access, servicing and car parking arrangements (51 car spaces and one loading bay), introduction of a porte cochere off King Street and pedestrian infrastructure upgrades;
- (e) Business identification signage comprising one wall sign and two small pylon signs.
- (f) Minor service and infrastructure upgrades, including connection of new works to existing stormwater infrastructure; and
- (g) Landscaping and public domain works, including the removal of street trees and the previously described stairway to Wheeler Place.

The hotel accommodation is proposed to operate 24 hours per day, seven days per week. The café is proposed to operate from 5.00am to 10.00pm, seven days per week and the restaurant is proposed to operate from 5.00am to 3.00am seven days per week.

The current proposal is based on amended plans submitted by the applicant to address concerns raised by CN officers and CN's UDCG, in relation to the design of the roof of the development and also the design of the porte cochere. The original roof design incorporated a number of extended vertical blades that have now been removed. The original porte cochere design involved vehicular entry off King Street and egress onto Burwood Street, whereas the amended porte cochere design provides for it to be contained within the road reserve of King Street, as an indented bay.

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

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

3.0 PUBLIC NOTIFICATION

The application was publicly notified in accordance with CN's public participation policy, with one submission being received in response. The concerns raised by the objector in respect of the proposed development are summarised as follows:

- i) Inadequate on-site parking

- ii) Excessive building height/height non-compliance
- iii) Heritage impact
- iv) Overshadowing of Civic Park

The objector's concerns are addressed under the relevant matters for consideration in Section 5 of this report.

4.0 INTEGRATED DEVELOPMENT

Separate approval is required from Subsidence Advisory NSW under the *Coal Mine Subsidence Compensation Act 2017*, due to the site being located within a proclaimed mine subsidence district.

The applicant had the opportunity to seek to have the application processed as integrated development, pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979*, invoking a process whereby CN refers the application to relevant State agencies to seek their '*General Terms of Approval*'. The submitted application form does not nominate Subsidence Advisory NSW as a relevant agency. Notwithstanding that the applicant did not nominate Subsidence Advisory NSW as a relevant agency for integrated development on the application form, a referral was sent to Subsidence Advisory NSW, who requested that a geotechnical desktop assessment report be provided by the applicant for further assessment. The applicant submitted the requested geotechnical desktop assessment report on 15 July 2019 and it was then forwarded to Subsidence Advisory NSW. At the time of preparation of this report, no further response has been received from Subsidence Advisory NSW.

It is considered that any response that is received from Subsidence Advisory NSW can be provided to the applicant separately to the determination of this application. A condition of consent is recommended in the draft conditions (Attachment B), requiring that the development meet Subsidence Advisory NSW requirements.

5.0 PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

5.1 Provisions of any environmental planning instrument

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

SEPP 55 requires that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

In this regard, CN's mapping system identifies that the site is the subject of a land contamination report. CN's Environmental Health Coordinator has provided the following advice:

“Firstly, I understand and I am assuming that the statement is correct in that there are no excavations required to convert the current offices to a Hotel.

In relation to the requirements of SEPP 55 I note the following:

Clause 7(2) requires a preliminary investigation when a DA involves a change of use to residential, educational or child care purposes or for the purpose of a hospital.

I don't believe that the proposed Hotel use is a change of use to any of these uses and therefore I don't believe a preliminary investigation is required by clause 7(2).

This leaves the question of Clause 7(1) in relation to whether the site is contaminated and whether it is suitable for the development proposed.

The contamination report by RCA (Feb 2011) listed on our contaminated land layer for 282 King St related to the overall lot in 2011 (Lot 4 DP 1010675) prior to the subdivision of the site for the court house development.

The report does not involve sampling of part of the original Lot 4 that is now 282 King Street (Lot 1 DP1250295).

The investigation of that part of Lot 4 that is now the court house (Lot 41 DP 1169149) did not find contamination exceeding the commercial industrial land use criteria.

The investigation found that a former station on the current tax office site (266 King Street) was the most significant potential source of contamination.

Although it is possible some contamination may have migrated from the former site across to the current 282 King St, the current DA does not propose any earthworks.

The current offices and basement has been occupied for decades and I am not aware of any issues arising during this use in relation to contamination.”

Given the above, the proposal is considered to be acceptable having regard to the requirements of SEPP 55.

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

The subject site falls within the coastal environment area identified under the Coastal Management SEPP, which sets out considerations that the consent authority must have regard for, prior to determining a development application relating to land in the coastal environment area, as follows:

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

As the proposal involves alterations and additions to a building on a site that is located in a developed urban area, well removed from any immediate coastal or foreshore location and with no excavation proposed, it is considered that the proposed development does not create any significant concerns in relation to the above criteria.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP facilitates the effective delivery of infrastructure across the State. The development is subject to the following requirements of the ISEPP.

The proposal was referred to Ausgrid as works are proposed to be carried out within and adjacent to an easement for electricity purposes. This easement affects the whole of the site. Ausgrid raises no major concerns in respect of the application. The Ausgrid advice will be forwarded to the applicant with the development consent for their information and action.

The ISEPP contains provisions relating to traffic generating development and requiring that certain applications be referred to Roads and Maritime Services (RMS). Those provisions were considered to be applicable to the proposed development and, in response to a referral, written advice was received from RMS raising no objection to the proposal. RMS considered that there would be no significant impact on the nearby classified road network and further recommended that the following matters should be considered by CN in determining the application:

- a) *“Roads and Maritime has no proposal that requires any part of the property.*
- b) *Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.*
- c) *Council should have appropriate consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (ie AS2890.1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements, in particular the new Porte Cochere interaction with the pedestrian pathway.”*

A recommended condition of consent requires that a Construction Traffic Management Plan is to be submitted and implemented to manage traffic issues during the construction phase. As detailed elsewhere in the body of this report, it is considered that the proposal is satisfactory in relation to pedestrian, vehicular and bicycle traffic safety.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65)

SEPP 65 applies to the development of residential flat buildings and aims to improve the quality of residential flat development. As the subject proposal is for hotel accommodation, SEPP 65 does not directly apply to the assessment of the proposed development. However, the design quality principles of SEPP 65 have been used as a basis for the assessment of the design quality of the proposal. An assessment of the development under the design principles is provided below.

CN’s UDCG reviewed the originally submitted plans for the proposal on 17 April 2019. A summary of the Group’s advice in relation to the nine design principles is provided in the table below.

Design Quality Principles	Assessment
<p>Principle 1: Context and Neighbourhood Character</p> <p><u>UDCG comments:</u> <i>The subject site is located to the northern side of King Street, opposite Civic Park and between the Town Hall to the west and Burwood Street to the east.</i></p> <p><i>The site is occupied by the Newcastle Council Administrative Centre a cylindrical tower form constructed in the years 1972-77 to the design of Architects</i></p>	<p><u>Officer’s comment</u></p> <p>It is agreed that the neighbourhood character around the site displays a varied range of architectural styles, building ages and built forms, with a broad focus on administrative, office, educational and recreational/cultural uses.</p> <p>The City Hall, with its prominent and ornate clock tower, retains its role as an iconic focal point in the civic precinct.</p>

<p><i>Romberg & Boyd in association with Wilson & Suters. The existing building sits within a context of prominent civic buildings both to the northern and southern sides of Civic Park. The aligned buildings to the northern side of the street are of dramatically varied styles and form, comprising from west to east; the Inter War Functionalist Nesca Building; the Inter War sandstone clad Classical Revival style Newcastle City Hall; the 1970's Brutalist influenced CAC Building and the late 20th Century Modernist Style Australian Government Taxation Office. The group is largely viewed obliquely due to the dense avenue planting to the northern side of Civic Park and the forward alignment of the building group. More distant views place the buildings as a background to Wheeler Place looking south and Civic Park looking north.</i></p> <p><i>Openings between the buildings provide glimpses of larger recent buildings and Wheeler Place to the north, whilst Newcastle Gallery, War Memorial Library and the Baptist Tabernacle provided a dramatic horizon to the southern side of Civic Park seen through avenue planting opposite the site.</i></p> <p><i>The site and subject building are assessed as a key element in the civic heart of Newcastle.</i></p>	<p>The CAC building, with its strong external articulation and cylindrical form, addresses (to various degrees) King Street, Civic Park and the immediately surrounding public spaces and buildings without necessarily competing with them or visually dominating them. The cylindrical form of the building is ideal for its location, being surrounded by highly pedestrianised public space, allowing pedestrians to 'cut corners' around and close to the building. In contrast to the strongly expressed elevational detailing below it, the existing roof of the CAC building is simple in its design, so as not to compete visually with the nearby City Hall and its clock tower feature.</p> <p>The City Hall clock tower remains a prominent local landmark in distant views from various locations around the City. The nearby NeW Space and CAC buildings are similar in height to the City Hall clock tower but uncomplicated in roof design and sufficiently removed from the clock tower that they do not overwhelm or compete with this focal feature when viewed from a distance.</p>
<p>Principle 2: Built Form and Scale</p> <p><u>UDCG comments:</u> <i>The proposed development seeks to adapt the existing office building to a boutique hotel of 130 rooms and associated hotel amenities. Additions to the existing building include two additional upper levels, one providing restaurant/bar areas within a high-ceilinged volume aligned with the outer wall line of the cantilevered upper floors and, above this, a plant room level</i></p>	<p><u>Officer's comment</u></p> <p>The vertical 'masts' or blades, formerly proposed on the roof of the development have been deleted in the current architectural plans in order to address concerns expressed by the UDCG and Council officers that these blades created a roof design that was visually competing with the adjacent City Hall and its clock tower.</p> <p>The UDCG concerns regarding the</p>

recessed from the outer wall line and enclosed by horizontally slatted screening. Both new floors are set within a crown of vertical 'masts' rising above the additions and tapered in height to the north.

At Ground Level the altered lobby areas are linked to an extensive elliptical plan glazed awning projected out over arrival bays and partially over an outdoor café seating area to the opposite side. Whilst this would have provided useful protection, it would be a very dominant element, and other options should be explored.

Extensive works to the building surrounds maintain the established pattern of pavement, introducing a raised café area and small 'amphitheatre' to the northern side of the building orientated to Wheeler Place.

Upward extension of the existing building to the extent proposed would unfortunately compromise the symbolic importance of the adjacent Newcastle City Hall. Although its height is already exceeded by the new court and University building to the north of the site these have limited visual impact upon the immediate setting.

The existing building already exceeds the height limit. The highest point of the proposed vertical blades at RL 48.52 will provide a maximum height of 45.32m and will substantially exceed the 30m height limit. The roof of the plant room at RL 43.42 similarly substantially exceeds the development standard. Together the additional height and proposed architectural forms are of considerable concern.

An alternative design with some setbacks for the two additional floors, and for more restrained architectural expression might

proposed elliptical awning are noted. However, it is considered that the proposed awning serves many useful functions for not only the future hotel use but also the public. Weather protection for pedestrians is notably absent in this particular location notwithstanding the high level of pedestrian activity. While it could be viewed that the proposed awning may be quite a dominant feature, the current lack of any awning or weather protection around the building is considered to be a shortcoming of the CAC building. It is considered that the current proposal is relatively slimline in its design, to maintain a low profile, notwithstanding the area it covers. The proposed awning creates a human scale for the CAC building at street level, which is desirable.

Furthermore, the awning is considered to not be disproportionate in size when compared to the building, being slimmer where it is least needed and providing appropriate weather protection where it is most needed, over the main pedestrianised frontage and porte cochere space in the King Street frontage and partially over the outdoor café terrace use at the rear of the building. Consequently, the proposed awning is supported. The large expanse of glazed area may pose some risk of glare. A condition is recommended requiring that the awning be constructed using glazing with low level reflectivity.

It is considered that the proposed utilisation of the existing ground level CAC building terrace for a café use and the proposal to link this space with Wheeler Place, utilising stairs and seating fronting onto Wheeler Place, is a desirable activation of this part of the building with the adjoining public space, such that the CAC building no longer 'turns its back' on Wheeler Place, as it currently does.

<p><i>possibly be acceptable.</i></p> <p><i>Modest vertical extension was historically considered likely to the current building. Images of the building within the immediate context show the strong articulation and massing to already provide a prominent aspect of the setting. These and the cylindrical form serve to dissociate the building from the adjacent Newcastle City Hall, the height of which is restricted to a point tower isolated from surrounding buildings by the extent of the main building element below and the grandeur of the approaches from King Street.</i></p>	<p>In relation to the proposed upward extension of the building, it is agreed that the existence of the higher court house and university buildings do not provide justification as a precedent for the proposed height exceedance of the CAC building, as these buildings are more visually removed from the City Hall than the CAC building. It is noted that the additional height created by the vertical blades has now been removed in the amended plans and that the tallest point of the proposed development is now the roof of the plant level.</p> <p>The applicant was requested to consider providing a greater setback for the outer edge of the proposed two additional floors in order to make them less visually prominent. The applicant provided justification that this would compromise the operational utility of the restaurant. The applicant further responded with a more architecturally restrained expression in the design of the extension, by removing the vertical blades from the roof in the amended plans. This is considered to be an acceptable compromise in the circumstances.</p>
<p>Principle 3: Density</p> <p><u>UDCG comments:</u> <i>The proposed FSR has yet to be clarified. Council advised that the permissible density is yet to be determined and will be either 3:1 or 4:1 depending upon clarification of the site area and impact of road widening. The Statement of Environmental Effects claims that the FSR is 3.88:1.</i></p> <p><i>This is an unusual case in which compliance or otherwise with the FSR, is less critical than the built form issues.</i></p>	<p><u>Officer's comment</u></p> <p>The proposed FSR for the proposed development is 3.88:1. This complies with the maximum FSR development standard of 4:1.</p>
<p>Principle 4: Sustainability</p>	<p><u>Officer's comment</u></p>

<p><u>UDCG comments:</u> <i>Windows have been replaced by Council with double glazed units in recent years and are not proposed for change.</i></p> <p><i>Other aspects of sustainability were not discussed. Retention of a maximum of existing fabric represents a positive aspect of sustainability.</i></p>	<p>The sustainability of the development is considered to be adequate given the nature of the proposal and the limited scope available in circumstances where an existing building is being adapted for a new use. The preservation of the existing building in preference to demolition and rebuilding is highly desirable in this regard.</p>
<p>Principle 5: Landscape</p> <p><u>UDCG comments:</u> <i>Whilst at a preliminary stage the proposed removal of at least one street tree in King Street, and of the existing planter bed to the King Street frontage is proposed to be balanced by additional tree planting in Wheeler Place. The location and species of trees should be carefully considered in terms of sightlines from King Street through to Wheeler Place.</i></p> <p><i>The continuation of consistent hard landscaping from Wheeler Place into the new surrounds of the hotel is supported.</i></p> <p><i>It would be timely for Council to review the landscape and urban design of Wheeler Place in totality, in parallel with the assessment of this application. The southern end of the site will potentially be significantly upgraded to complement the new development, but the northern end in particular is in need of creative invention. At this end it is terminated by views of nondescript commercial buildings, with inadequate landscape within Wheeler Place itself.</i></p>	<p><u>Officer's comment</u></p> <p>It is noted that the UDCG support the "continuation of consistent hard landscaping from Wheeler Place into the new surrounds", which is a reference to the proposed new stairs and seating facing onto Wheeler Place.</p> <p>It is proposed to remove two swamp mahogany trees and a broad leaf paperbark tree in Wheeler Plaza, adjacent to the pedestrian crossing to Civic Park. It is also proposed to remove two London Plane trees adjacent to the corner of King Street and Burwood Street.</p> <p>City Greening do not currently support the removal of any trees and advise the following:</p> <p><i>"..all trees are retainable at this stage pending a comprehensive Arborist Report being undertaken by the proponent which should clearly identify all trees affected by the proposal. Any tree removal must be in line with UFTM Tree removal tests and be able to demonstrate removal as the only option."</i></p> <p>It is noted that the actual impact of the proposal on the trees could not be assessed by an arborist until the final design of the porte cochere was approved by Council's Traffic Committee, which occurred on 15/07/19. Consequently, no arborist report was required or submitted.</p>

	<p>It is agreed that the applicant has not adequately demonstrated the need for the removal of trees.</p> <p>A condition is recommended, requiring that all trees not approved for removal be protected during construction. A further condition of consent is recommended stating that this development consent does not include approval for the removal of any trees.</p> <p>The proposed development includes the planting of four red maple trees in Wheeler Plaza, between the CAC building and City Hall and an additional red maple on the corner of King Street and Burwood Street. City Greening have objected to the red maples on the basis that <i>“they have been proven to not perform and are considered a poor choice of species for the Newcastle LGA..”</i> City Greening recommended Leopardwood, London Plane or Jacaranda trees as preferred species.</p> <p>The proposal also involves the planting of a poinciana or Flame Tree as a feature tree in a proposed new planter box adjacent to the café terrace. This tree is an exotic species with distinctive bright orange flowers and will introduce some colour to Wheeler Place. No objections are raised from City Greening or planning officers to this proposed planting.</p> <p>In addition to City Greening’s comments regarding the red maple trees proposed to be planted, concern is also raised regarding the location and density of the proposed plantings in Wheeler Plaza, as these plantings are likely to impinge on sight line views from King Street into Wheeler Place as well as block views of the eastern façade of City Hall. The spacing of the tree planting in Wheeler Plaza should be generous to allow views</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>of this façade to be maintained. In order to ensure a balance between maintaining views of heritage facades and landscaping, it is considered that only one or two trees should be planted in Wheeler Plaza, between City Hall and the CAC building, rather than the four proposed.</p> <p>In relation to the suggestion that CN initiate a landscape/urban design upgrade of Wheeler Place in parallel with the consideration of this application, this is not considered reasonable. Wheeler Place landscape treatment can be considered independently of this application.</p> <p>As a consequence of the above discussion, with the exception of the Flame Tree proposed on the site, the currently proposed tree planting is not supported. A condition is recommended to specify that tree removal is not approved under this application. Further approval for public domain works will be required through a separate process.</p>
<p>Principle 6: Amenity</p> <p><u>UDCG comments:</u> <i>The proposed vehicle lay-by generates a pinch point at the foot of the main entry stairs likely to impact on passing pedestrians particularly during loading/unloading of coaches.</i></p> <p><i>Provision of services and deliveries is identified by the applicant as the most complex issue of the adaptive reuse. Movement/turning patterns of trucks particularly about the loading dock and pedestrian safety measures when crossing Burwood Street need further clarification.</i></p>	<p><u>Officer's comment</u></p> <p>The vehicle lay-by or porte cochere design has been amended in response to the concerns of the UDCG and CN officers. The currently proposed porte cochere design has a smaller indented bay that does not extend into the site (ie is fully within the King Street road reserve). As a result of this amendment, the pedestrian 'pinch point' has been widened from 4.2m to 7.2m, measured from the base of the stairs to the porte cochere kerb. This issue is considered to be satisfactorily addressed by the applicant.</p> <p>Servicing, loading dock movements and pedestrian safety have all been assessed as satisfactory, as detailed later in section 5.3 of this report in</p>

	<p>relation to Section 7.03 and 7.04 of the Newcastle Development Control Plan 2012.</p>
<p>Principle 7: Safety</p> <p><u>UDCG comments:</u> <i>Further consideration of safety issues arising from buses using the proposed layby should be addressed.</i></p>	<p><u>Officer's comment</u></p> <p>Given the anticipated clientele for the proposed five star hotel, the frequency of the use of the porte cochere by buses is likely to be low. The porte cochere has been amended from the version viewed by the UDCG, which involved much less pedestrian space between the building and porte cochere kerb.</p> <p>The porte cochere is now designed as a smaller indented area off King Street, allowing greater space for pedestrians and allowing bus passengers to alight directly onto the footpath, which effectively removes potential conflict between buses, or any vehicles using the porte cochere, and pedestrians. Additional space has been added to create better separation from parked vehicles in the porte cochere and the cycle lane on King Street. CN's Traffic Committee have considered the amended porte cochere design and provided in principle support to this aspect of the proposal.</p>
<p>Principle 8: Housing Diversity and Social Interaction</p> <p><u>UDCG comments:</u> Not applicable</p>	<p><u>Officer's comment</u></p> <p>The proposal will have a positive impact in terms of social interaction within the Civic Precinct, providing high quality accommodation and associated food and beverage provision in a location that is convenient to cultural, entertainment, recreational, educational and community facilities. There are popular public gathering spaces in proximity to the site that will benefit from the additional activity and tourist accommodation provided by the proposal.</p>
<p>Principle 9: Aesthetics</p> <p><u>UDCG comments:</u> <i>The proposed additions need to address:</i></p>	<p><u>Officer's comment</u></p> <p>While not all of the design amendments suggested by the UDCG are proposed in the amended plans, the most necessary</p>

<ul style="list-style-type: none"> • <i>The intellectual copyright of the original design/designers</i> <p><i>Whilst not listed as an item of heritage significance, there is a growing acknowledgement of later 20th Century architecture, particularly that undertaken in response to the prevailing architectural theories of the time and an expectation that major examples be protected. The building is a significant architectural and cultural element in the city, which is definitely worthy of a carefully considered, sensitive adaptation to the proposed new function.</i></p> <ul style="list-style-type: none"> • <i>The aesthetic form and finishing of the original building</i> <p><i>The Group considers the following aspects of the proposed additional floors to require further design development and or amendment:</i></p> <ul style="list-style-type: none"> ○ <i>The height of the additional dining floor and alignment of the outer wall line of the upper floors rather than that of the lower floors. The proposed configuration of the dining floor is considered to over emphasize the new floor rather than provide additions deferring to the original form and scale.</i> ○ <i>The vertical blades forming a crown about and above the new upper floors add a further layer of detail to an already complex exterior and reduce the clarity of the original form. The distracting aspect of the blades is exacerbated by the splayed alignment against the skyline. Whilst dramatic, the assembly competes not only with the</i> 	<p>change with the greatest potential to improve the design of the development, the removal of the vertical blades on the roof, has been incorporated in the amended plans.</p> <p>The removal of the blades allows the strong external articulation of the existing portion of the building to remain the defining architectural feature of this building. A further benefit of the removal of the blades is that the addition no longer results in the CAC building challenging the City Hall as the focal point in this locality.</p> <p>The other desired changes suggested by the UDCG, including the height of the additional dining floor being lowered and the alignment of the outer glass wall of the dining floor being setback further inside the outer edge of the existing building, would have assisted in further reducing the prominence of the rooftop addition, although it would have always been visible, even with such modifications. The applicant has justified that these changes would have compromised the operational needs of the dining floor and this is accepted as reasonable.</p> <p>As discussed previously under Principle 2, the concerns expressed by the UDCG regarding the elliptical awning are noted, however, it is considered that an awning would still be required and any such awning would be significant in size and may not necessarily relate to the design and form of the existing CAC building, by virtue of the need for it to be functional, covering certain areas around the building, including the porte cochere. The elliptical shape of the awning does reference the form and proportions of the CAC building. It also provides shelter where it is needed and maintains a relatively low profile. It is considered that the current awning design is acceptable.</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p><i>existing form, but also with the adjacent tower of Newcastle City Hall. Comparison with historic and recent use of vertical elements to increase the apparent height of tower forms reinforces the need for such elements to be a continuation of the dominant articulation of the building.</i></p> <ul style="list-style-type: none"> <i>The urban context</i> <p><i>As noted in items 1 & 2 the relationship with the urban context is not so much dependent on remaining below the height of the Newcastle City Hall Tower but in retaining overall cohesion with the setting. The proposed crown of [possibly illuminated] blades to the top of the development will add to the buildings prominence to a degree not considered contributory to the context given the existing identification of the City Hall as the focal point of the setting. Reference has been made to Boston City Hall in the application Heritage Report however a more relevant comparison in the urban context would be Ken Woolley’s Sydney Town Hall Offices [also influenced by Boston City Hall] set to the rear and off axis from the Sydney Town Hall. Here the same aesthetic is employed with sufficient discretion to retain the Town Hall as the focal point of the setting. Reduction in the prominence of the proposed additions to 282 King Street would improve cohesion of the subject building with the setting.</i></p> <p><i>(note under image in UDCG report of Sydney Town Hall with taller newer buildings around it: “Although lower, the Sydney Town Hall tower maintains its prominence by virtue of restrained skyline profiles to surrounding taller structures.”)</i></p>	<p>It is noted that the main proposed signage above the primary pedestrian entry to the hotel involves the lettering fixed onto vertical blades, with no backing. This gives the signage a transparent quality. This is considered to be a benefit of the design of this signage as it is not overwhelming, nor visually dominating of the main façade and it does not obstruct the legibility of the external detailing of the building.</p> <p>Should the ‘Kingsley’ lettering font be required to be reduced in size, as implied by the UDCG comments, this would make it less effective and difficult to read from a distance. It is considered that the ‘Kingsley’ lettering size is not overwhelming the scale and proportions of the section of the CAC building to which it is proposed to be affixed. In addition, the proposed pylon signs are considered to be sufficiently discreet and not excessive in terms of their size. It is therefore considered that, on balance, the signage is reasonable, as proposed.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p><i>The elliptical awning about the base of the building whilst of minimal profile appears unrelated to the original aesthetic of the building despite being the first thing most arrivals will see. Further design studies should be provided to assess ways of better integrating this with the existing building form and detail.</i></p> <p><i>Reference to signage in the presentation indicated locations, fonts and design of signage not supported by the Group. The large scale of the signage is intrusive in this context and is not supported. As with the ground level awning this requires design development to achieve cohesion and enhancement of the existing built form.</i></p>	
<p>Amendments Required to Achieve Design Quality</p> <p><u>UDCG comments:</u></p> <p><i>All of the above issues should be addressed, with the following being critical:</i></p> <ul style="list-style-type: none"> • <i>Height and form of the additional two floors.</i> • <i>Scale and form of the new glazed awning.</i> • <i>Signage.</i> <p><i>Summary Recommendations</i></p> <ol style="list-style-type: none"> 1. <i>Adaption of the existing building to provide an elegant new hotel in this location is supported in principle, as is the general planning and location of accommodation and hotel facilities.</i> 2. <i>Whilst the addition of two floors, and a new entrance canopy could potentially be supported in</i> 	<p><u>Officer's comment</u></p> <p>The form and design expression of the additional two floors of the rooftop addition are considered to have been adequately addressed with the removal of the vertical blades, as discussed above.</p> <p>The awning and signage is, on balance, considered to be acceptable, as discussed in detail above.</p> <p>The suggestion that Council initiate a landscape/urban design upgrade of Wheeler Place in parallel with the consideration of this application is considered to not be reasonable in the circumstances as this landscape treatment can be considered independently of this application and should not delay the assessment and determination of the application.</p>

<p><i>principle, the design as submitted requires reconsideration for the reasons discussed above.</i></p> <p>3. <i>Council is urged to initiate a landscape/urban design upgrade of Wheeler Place in parallel with consideration of this application.</i></p>	
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Apartment Design Guide (ADG) - Key "Rule of Thumb" Numerical Compliances

The ADG provides benchmarks and guidelines for the design and assessment of a residential apartment development. As the ADG does not technically apply in the assessment of the subject proposal, it is not referred to in this assessment.

State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64)

The proposed business identification signage includes the following:

- i) One wall sign in the form of anodised gold letters (flood lit) fixed to vertical metal blades above the building's main pedestrian entrance. The top line of lettering will be approximately 4.6m in width and 1.1m in height ('Kingsley'), while the bottom line of lettering ('Crystalbrook') will be 2.8m in width and 0.5m in height; and
- ii) Two 'K's similar to above detail on both ends of the existing projecting element of the building over main pedestrian entrance.
- iii) Two pylon signs in the form of a signage box on a concrete base. The signage boxes will comprise of gold lettering ('Kingsley') on an opaque glass backing with metal casing around the glass enclosure. The boxes will be 1.5m in height and 0.3m in width.

SEPP 64 stipulates that consent must not be granted unless a consent authority is satisfied that the proposed signage is consistent with nominated aims and objectives and assessment criteria.

The aims and objectives of SEPP 64 are as follows:

This Policy aims:

- a. *To ensure that signage (including advertising):*
 - i. *Is compatible with the desired amenity and visual character of an area; and*
 - ii. *Provides effective communication in suitable locations; and*
 - iii. *Is of high quality design and finish; and*
- b. *To regulate signage (but not content) under Part 4 of the Act; and*

- c. To provide time limited consents for the display of certain advertisements; and*
- d. To regulate the display of advertisements in transport corridors; and*
- e. To ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

In relation to the Aim a. above, noting that the CAC building is a contributory building in a heritage conservation area, the proposed signage is considered to be compatible with the desired amenity and visual character of the area. The proposed 'Kingsley' and 'Crystalbrook' gold lettering over the main pedestrian entrance is considered to effectively communicate the building identity and, be of an appropriate size, colour and detail, such that it sits harmoniously within the context of the strong external articulation of the building without diminishing this architectural expression. Other signage proposed either utilises existing building features (ie 'K's on existing projecting features) or is discretely located and proportioned to serve their purpose without causing excessive clutter within the public domain. The design and finish of all signs is considered to be of high quality.

There is a concern with the proposed building identification sign that is not within the boundaries of the site but is within Wheeler Place, adjacent to the stairs up to the café terrace. All signage should be within the boundaries of the site, it is considered to be not appropriate to use public land for the placement of private signage. This location is not supported and a condition is recommended to require that the sign be relocated to within the boundaries of the site.

With regard to the other aims of SEPP 64, Aim b. is noted while Aims c., d. and e. are not relevant to the proposal.

SEPP 64 sets out the following assessment criteria for signage:

1. Character of the area

- a) Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- b) Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

2. Special areas

- a) Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

3. Views and vistas

- a) Does the proposal obscure or compromise important views?*
- b) Does the proposal dominate the skyline and reduce the quality of vistas?*
- c) Does the proposal respect the viewing rights of other advertisers?*

4. Streetscape, setting or landscape

- a) *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- b) *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- c) *Does the proposal reduce visual clutter by rationalising and simplifying existing advertising?*
- d) *Does the proposal screen unsightliness?*
- e) *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- f) *Does the proposal require ongoing vegetation management?*

5. *Site and building*

- a) *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- b) *Does the proposal respect important features of the site or building or both?*
- c) *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

6. *Associated devices and logos with advertisements and advertising structures*

- a) *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

7. *Illumination*

- a) *Would illumination result in unacceptable glare?*
- b) *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- c) *Would illumination detract from the amenity of any residence or other form of accommodation?*
- d) *Can the intensity of the illumination be adjusted, if necessary?*
- e) *Is the illumination subject to a curfew?*

8. *Safety*

- a) *Would the proposal reduce the safety of any public road?*
- b) *Would the proposal reduce the safety of pedestrians or bicycles?*
- c) *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

Having regard for SEPP 64 assessment criteria for signage, the following is noted:

1. The proposed signage is considered to be compatible with the desired future character of the area, as expressed in Newcastle Development Control Plan 2012, Section 6.01 Newcastle City Centre, which cites building identification signage that is well designed, easily identifiable and of a high quality finish as an acceptable solution.
2. The proposed signage does not have any material impact on the heritage value of the contributory item building on which it is located or the heritage

value of the Newcastle City Centre Heritage Conservation Area in which the site is situated. Noting the strong external articulation of the building, the proposed 'Kingsley' and 'Crystalbrook' gold lettering is considered to not overly dominate this architectural expression whilst still serving its purpose by being legible and appropriately located to mark the main pedestrian entrance to the future hotel. Other proposed signage blends harmoniously with the architectural detail and setting of the building.

3. The proposed signage has no impact on any significant views or vistas and does not dominate the skyline.
4. The scale and proportions of the signage is considered to be acceptable in the context of the scale of the building and its strong external articulation. The signage is appropriately located, contributing to the visual interest of the main pedestrian entry to the building. The signage is minimal and does not create unnecessary clutter. The signage does not excessively protrude above or beyond the existing elements of the building.
5. The proposed signage is considered to be compatible in scale and proportion with the building on which it is located and is considered to be successfully integrated into the building design in an imaginative way.
6. The proposed signage is building identification signage and not advertisements or advertising structures. There are no significant associated devices. The signage content represents the corporate branding of the hotel. The proposed 'K' signage on existing projecting elements of the building enhance the scope and visibility of the building identification signage for people who cannot see the main signage when viewing the building from the east or the west. This is considered to be a good integration of this corporate branding into the overall signage design and good use of the existing building elements.
7. The main lettering signage is proposed to be floodlit rather than backlit. This method of illumination is likely to minimise the risk of glare as the lighting is directed toward the building rather than emanating out from it. As the hotel is a 24 hour operation, no curfew on the signage illumination is proposed or recommended.
8. It is considered that the proposed signage would not reduce public safety in any way.

Subject to conditions, the proposed signage is considered to be acceptable in that it satisfies the relevant considerations under SEPP 64 and does not result in any significant detrimental impacts.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

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

Clause 2.1 - Land Use Zones

The subject property is located within the B3 Commercial Core zone, under the provisions of the NLEP 2012, and the proposed development is permissible with consent in this zone.

The proposed development is consistent with the relevant objectives of the B3 Commercial Core zone, which are:

- i) To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- ii) To encourage appropriate employment opportunities in accessible locations.*
- iii) To maximise public transport patronage and encourage walking and cycling.*
- iv) To provide for commercial floor space within a mixed use development.*
- v) To strengthen the role of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter region.*
- vi) To provide for the retention and creation of view corridors.*

Clause 2.7 - Demolition Requires Development Consent

The proposal includes some minor demolition to the building, including the removal of internal walls. Conditions are recommended to require that demolition works and disposal of material is managed appropriately and in accordance with relevant standards.

Clause 4.3 - Height of Buildings

Under NLEP 2012 the site has a height of buildings development standard of 30m. The existing building does not comply with this standard, with a current height of 35m.

The proposed development, with the addition of two levels to the building, will result in a total height of 44.52m, equating to an exceedance of 14.52m or 48.4% above the height of buildings development standard for the subject land.

The applicant has submitted a clause 4.6 variation request to this standard. Refer to discussion under Clause 4.6 Exceptions to Development Standards below. An assessment of the clause 4.6 variation request has found this request to be well-founded in the circumstances and the height variation is supported.

Clause 4.4 - Floor Space Ratio

Under NLEP 2012 the site has a maximum 4:1 floor space ratio. The submitted FSR is 3.89:1 and complies with this requirement.

Clause 4.5 - Calculation of floor space ratio and site area

Sub-clause 4.5(4)(b) of NLEP 2012 states the following:

“The following land must be excluded from the site area:

..(b) community land or a public place (except as provided by subclause (7)).”

Sub-clause 4.5(7) of NLEP 2012 states the following:

“For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.”

The term ‘public place’ is not defined in NLEP 2012. However, the common meaning of the term could reasonably be taken to mean land or a built space that is generally available for the public to use or freely traverse. In this regard, the curtilage of the site around the existing building could be considered to be a public place for the purposes of this clause as it is heavily pedestrianised space where access to this area by the public is unrestricted.

Clause 4.5(7) of NLEP 2012 qualifies the exclusion of public space from the calculation of site area where that public space may have a part of the proposed development on, above or below that public place or where the public place is otherwise physically affected by the development. In such circumstances, the public place may be included in the calculation of site area. It is noted that there is no explanation or definition of the intended meaning of ‘physically affected by the proposed development’. Consequently, this is open to interpretation. For the purposes of the assessment of the subject application, the meaning of this term is taken to be any physical affectation of public place land within the boundaries of the site by the proposed development, including the likely use of the land following the completion of the development.

The site curtilage areas including the basement parking access ramp are not considered to be public places. The proposed public seating facing Wheeler Place could be considered to be a public place but is physically affected by the development. The café terrace is physically affected by the development. The curtilage areas covered by the entry stairs and porte cochere are physically affected by the development. The curtilage area adjacent to Wheeler Plaza and in-between the entry stairs and café terrace include the disabled access ramp and would therefore be utilised by users of the development accessing the hotel. This land is therefore also considered to be physically affected by the development. The curtilage area on the southern side of the building is on, above or below the porte cochere, its awning or the basement, which extends below this area. The remaining curtilage public space is physically affected by the development due to its proximity to the building and likely use by people accessing the hotel.

The whole of the site area is 1,598sqm. If the terms of Clause 4.5 were to be applied to the curtilage areas of the site as described above, it is considered that

Clause 4.5 would not result in a reduction of the site area for the purposes of the calculation of floor space ratio.

Clause 4.6 - Exceptions to development standards

The applicant has made a request under the provisions of this clause to vary the maximum building height development standard set out under Clause 4.3 (Height of Buildings).

The provisions of clause 4.6 relevant to the assessment of the applicant's variation request are as follows:

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

An assessment of the Applicant's Clause 4.6 variation request is provided below.

- i) Is the provision to be varied a development standard?

The height of buildings development standard provision in NLEP 2012 is a development standard in that it is consistent with the definition of development standards under section 1.4 of the *Environmental Planning and Assessment Act 1979*.

- ii) Is the development standard excluded from the operation of Clause 4.6?

In regard to subclause 4.6(2), the height of buildings development standard is not expressly excluded from the operation of Clause 4.6.

- iii) What is the applicable numerical standard and what is the extent of the variation proposed?

The applicable building height development standard is 30m and the maximum height of the proposal is 44.52m, measured to the top of the plant level screen wall. This is a 48.4% variation to the development standard.

- iv) Has it been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The applicant has made reference in their variation request to the Land and Environment Court Judgement of *Wehbe vs Pittwater Council [2007] NSW LEC 827*. This judgement outlined the rationale for varying development standards and the circumstances under which strict compliance with them may be considered unreasonable or unnecessary.

The underlying objectives of the height of buildings development standard, as set out in Subclause 4.3(1) of NLEP 2012 are:

- (a) *To ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy.*
- (b) *To allow reasonable daylight access to all developments and the public domain.*

The applicant has submitted the following justification in relation to Objective (a):

"...Appropriately, the DCP character and built form objectives for the Wheeler Place Key Precinct emphasises the importance of pedestrian permeability between buildings, protecting heritage items and contributory buildings, and enhancing the public domain. In this context, the desired future character and built form of the

immediate area is essentially to maintain or complement the existing character and built form. This is achieved by retaining original built features that contribute to the existing character and through new buildings or building additions that complement and protect the heritage significance and character of surrounding heritage values.

The proposed development responds to the desired future character and form through the retention of the City Administration Centre (CAC) building and the introduction of new levels above that are recessive and lightweight in design...

...Importantly, the proposed additions have been designed to respect and complement the existing building and its relationship with the conservation area and surrounding heritage items....EJE Heritage additional notes that 'despite its prominent location, the roof top level and plant level are submissive to the bulk and form of the existing building, and also to the City Hall (particularly the clock tower), Civic Theatre, NESCA House and Frederick Ash Building.'

Having regard to the above, it is submitted that the proposed development appropriately responds to the DCP character and built form objectives, in particular by maintaining the building's relationship with its heritage context. The proposal will deliver an appropriate built form that is consistent with the scale of nearby heritage and new developments and the desired character of the heritage conservation area."

Noting the above comments, it is considered that the removal of the blades in the amended plans has assisted in dampening down the prominence of the non height compliant rooftop addition to the CAC building so that the proposal is gaining height without 'robbing' the City Hall of its status as the focal point in the Civic Precinct, in a similar situation as the Sydney Town Hall, surrounded by higher, more recent buildings with relatively simple roof designs that defer to the more important Sydney Town Hall. As noted by the UDCG previously within this report, "*Reduction in the prominence of the proposed additions to 282 King Street would improve cohesion of the subject building with the setting.*"

As noted by the applicant, the expressed desired future character is not to seek strong architectural expression but to maintain the status quo in terms of the relationship between the buildings in the civic precinct. A simple, yet elegant rooftop addition, as now proposed, achieves this outcome. It is considered that Objective (a) is now achieved.

The applicant has submitted the following in relation to Objective (b):

"Shadow diagrams have been prepared for the proposal...It is noted that the shadow diagrams depict the shadows cast by the original design, inclusive of the rooftop blades. The revised design will therefore have a lesser overshadowing impact than what is depicted...

...some additional overshadowing to the public domain will occur as a result of the proposed non-compliant additions. Importantly though, additional shadows cast by the upper level additions will be the fastest moving and are relatively minor in the context of existing overshadowing and the large and expansive nature of Civic Park

that a currently shaded by existing mature trees. No additional overshadowing will occur to adjoining buildings.

Accordingly, reasonable daylight access to neighbouring developments and the public domain will be maintained as a result of the height non-compliances.”

The non-compliant addition will add some shadowing impact to Civic Park. This is an unavoidable impact for any addition to the height of this building. It is noted that this impact has been reduced in the amended plans. The wording of Objective (b) is such that it does not seek to prohibit or prevent additional overshadowing of the public domain, but rather seeks to ensure that “*reasonable daylight access*” to the public domain is maintained. In this context, the additional overshadowing of Civic Park is considered to be relatively minor and not unreasonable, in that the overall affected area of the park is broadly distributed, with each affected area at any one time being relatively small in size and only affected for a short portion of the day during midwinter, receiving “*reasonable daylight access*” at other times. The proposal is therefore considered to achieve this objective, notwithstanding the numerical non-compliance.

- Objectives of clause 7.9 ‘*Height of buildings*’

In their clause 4.6 variation request, the applicant has addressed the objectives of clause 7.9 of NLEP 2012 which applies to land in the Newcastle City Centre located within ‘*Area A*’ or ‘*Area B*’ on the Height of Buildings Map. The Height of Buildings Map of NLEP 2012 does not currently identify any such area, so this clause does not apply to the assessment of the application. However, the information submitted in response to these objectives by the applicant has been considered as part of their overall justification for the proposed variation to the height of buildings development standard.

It is agreed that the proposed additional levels are recessive, deferring to the strong external articulation of the lower levels of the building. It is also agreed that the proposed addition does not cause any unreasonable amenity impacts on adjoining development and that the shadowing impact on Civic park is within acceptable limits.

It would appear that the main features of the proposal that directly assist in preserving the symbolic importance of the City Hall clock tower are the fact that the topmost point of the proposed addition (without the vertical blades) remains below the peak of the clock tower and that the roof design of the addition is elegant and simple, similar to the situation described in the UDCG comments relating to the Sydney Town Hall.

Furthermore, the height non-compliance would not result in any intrusion or obstruction into this vista.

- Zone Objectives

The objectives of the B3 Commercial Core zone are as follows:

- i) *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- ii) *To encourage appropriate employment opportunities in accessible locations*
- iii) *To maximise public transport patronage and encourage walking and cycling.*
- iv) *To provide for commercial floor space within a mixed use development.*
- v) *To strengthen the role of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter region.*
- vi) *To provide for retention and creation of view corridors.*

The applicant has provided the following justification in relation to the consistency of the proposal with the zone objectives.

“The proposal will provide short term accommodation and ancillary café and restaurant uses that will serve the needs of visitors to the area, as well as the local and wider community.

The proposal will provide a number of local employment opportunities for hotel and hospitality staff in a highly accessible location.

The proposal positions tourist accommodation in close proximity to public transport nodes, services, shops and a range of community and recreational facilities, to maximise public transport patronage and encourage walking and cycling.

The proposal does not involve a mixed use development. Notwithstanding, the proposed hotel provides ancillary retail floor space in the form of a café and restaurant/bar.

The provisions of much-needed high quality tourist and visitor accommodation in the Civic Precinct will help strengthen the Newcastle City Centre’s position as the regional business, retail and cultural centre of the Hunter region. In particular, it will help attract visitors to the area, and enhance the City’s capacity to host major cultural and sporting events.

...the proposal will not adversely impact on view corridors.”

It is agreed that the proposal is consistent with the objectives of the B3 Commercial Core zone.

The applicant has submitted that the proposed boutique hotel will be the first of its kind in Newcastle as a five star hotel. It is argued by the applicant that the proposal will strengthen Newcastle’s position as a major tourist destination in NSW and enhance its capacity to host major cultural and sporting events. The applicant further submits that, in order to facilitate the adaptive re-use of the CAC building, the two new levels proposed are necessary to incorporate facilities to support the building’s new function as a boutique hotel, as well as necessary roof-top plant and equipment.

Given the nature of the proposed use and the expectations that future patrons are likely to have in relation to the facilities offered by a boutique hotel, it is accepted that some additions would be necessary in this circumstance and that a boutique hotel in this location is highly desirable and beneficial to the City of Newcastle generally. The strict application of the maximum building height development standard in this circumstance would reduce the possibility of the proposed use proceeding and would require the partial demolition of the already non-compliant existing building, to no benefit.

The purpose of clause 4.6 is to provide appropriate flexibility in applying development standards to achieve better outcomes. The application of clause 4.6 in this circumstance is therefore considered to be consistent with the objectives of this clause.

Given the above, it is considered that the development is consistent with the relevant planning objectives. Consequently, it is considered that the clause 4.6 variation request submitted by the applicant has demonstrated that requiring strict compliance with the height of buildings development standard would be both unreasonable and unnecessary in the circumstances of the case.

- i) Has it been demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?

The grounds put forward by the applicant in justification of the proposed non-compliance with the height of buildings development standard have been discussed above and are supported.

- ii) Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and, the objectives for development within the zone?

The above assessment has demonstrated that the proposed development is consistent with the objectives of the height of buildings development standard and, it is consistent with the objectives of the B3 Commercial Core zone. The development is therefore considered to be in the public interest.

- iii) Has the concurrence of the Secretary been obtained?

The Department of Planning & Environment advised via Planning Circular PS018-003 (21 February 2018) that concurrence of the Secretary could be assumed by Council (but not by a delegate of Council) for a variation to a height of buildings development standard greater than 10%. Concurrence is therefore assumed in this case, if a determination is made to approve the proposed development.

- iv) Is this clause 4.6 request to vary a development standard supported?

It is concluded that the applicant's clause 4.6 variation request has satisfied the relevant tests under this clause. The request to vary height of buildings development standard is therefore supported.

Clause 5.10 - Heritage Conservation

Clause 5.10(4) requires CN to consider the effect of a proposed development, located in a heritage conservation area, on the heritage significance of that heritage conservation area, prior to granting consent to the development. It is noted that the site is also located in the vicinity of a number of listed heritage items including:

- (a) Newcastle City Hall
- (b) Civic Park
- (c) The Civic Theatre
- (d) The Frederick Ash Building
- (e) NESCA House
- (f) Christie Place

A Statement of Heritage Impact has been submitted to assist CN in its consideration of heritage impact. This report confirms that the CAC building is a contributory item within the Newcastle City Centre Heritage Conservation Area.

The Statement of Heritage Impact lists the following reasons to demonstrate that the proposal respects or enhances the heritage significance of the Newcastle City Centre Heritage Conservation Area and nearby heritage items:

- a) It is open to the proponent to submit an application for the demolition of the building, the proposal ensures the CAC building is not lost and continues to contribute to the conservation area.*
- b) The proposal will activate and reinvigorate the conservation area.*
- c) The lightness and translucence of the elliptical awning minimally disrupts the existing vertical elements of the façade while fulfilling an essential need associated with the change of use to hotel accommodation while respecting the adjacent City Hall, Civic Theatre, Frederick Ash Building and Newcastle City Centre Heritage Conservation Area in general.*
- d) The elliptical awning is located below the commencement of the columns, leaving them undisrupted.*
- e) The upwards-tapering form of the columns supporting the awning reflect the existing cantilever forms of the transition between the differentially-sized floor plates, while remaining legible as new work. The stays tying the awning to the façade also mirror these cantilever forms.*
- f) The use of curved walls addressing the corridors, and within the individual rooms, respects the internal geometry of the building and preserves the Romberg & Boyd / Suturs & Wilson design concept of circulation proceeding*

outwards from the internal service core in reflecting the geometry of NESCA House.

- g) The existing waffle slab ceilings in public areas such as the lobby will be retained.*
- h) In the hotel rooms, the existing waffle slab ceilings will be retained beneath the proposed suspended ceilings with hidden pelmet lighting, the form of which will complement the geometry of the building. Here, and in the corridors, the layout of the ceilings will respect the ceiling coffer lines.*
- i) The roof top level will make use of space currently devoted to plant, and will introduce new audiences to new physical perspectives of nearby heritage items within the Newcastle City Centre Heritage Conservation Area.*
- j) The glazed rooftop level is readily identifiable as new work in terms of the Burra Charter 2013, preserving the original heavily curved façade as visible from the public domain.*
- k) Despite its prominent location, the rooftop level and plant level are submissive to the bulk and form of the existing building, and also to the City Hall, Civic Theatre, NESCA House and Frederick Ash Building.*
- l) The rooftop level employs lightweight materials and neutral colours for structural elements so as not to detract from the City Hall, Civic Theatre, Frederick Ash Building and from the Newcastle City Centre Heritage Conservation Area generally.*
- m) Cleaning of the façade will reveal the granulated reconstruction external render designed to complement the stone veneer of the City Hall and NESCA House.*

Officer's Comment

The above comments are noted. It is considered that the proposed new external work to the building is considerate of the building's status as a building that contributes to the heritage significance of the heritage conservation area and that the proposed work is kept to the minimum necessary to facilitate the adaptive reuse of the building as a boutique hotel.

The proposal ensures that the cylindrical form, dominant external articulation and the projecting first floor feature over the main pedestrian entry of the existing building are all retained and remain clearly legible. The roof of the existing building was never a prominent feature, so as to not draw the eye of the observer upwards towards the roof, but downwards to the external articulation of the building. This avoids the CAC building challenging the prominence of the heritage listed City Hall with its ornate clock tower feature up high as the symbolic and prominent focal point of the area.

This existing design approach to the CAC building is continued in the proposal with the lightweight rooftop addition and uncomplicated roof design. It is noted that internal fabric has been retained in the proposal where possible.

At ground level, the addition of the porte cochere, signage, awning, cafe and stairs/public seating down to Wheeler Place are all new elements that provide functionality to facilitate the adaptive re-use of the CAC building to a boutique hotel. In addition, the awning, cafe and Wheeler Place stairs/public seating also activate and enhance the amenity of the public space around the building. These elements of the proposal are considered to not be intrusive to the heritage conservation area setting, nor are they intrusive to the setting of nearby heritage item buildings or Civic Park.

The submitted Statement of Heritage Impact lists the following aspects of the proposal that could detrimentally impact on the heritage significance of the heritage conservation area:

- i) *“Alterations and additions to any building carry with them the potential to detrimentally affect the heritage significance of the heritage item or area. It is therefore apparent that design solutions are developed so as to avoid this. It is submitted that this has been successfully done in the case of the proposed works, which pay tribute to the existing building. The modified building will retain its principal frontage and will continue to contribute to the Newcastle City Heritage Conservation Area, and the Civic Centre in particular.*
- ii) *The provision of an awning surrounding the building had the potential to be intrusive, and to be unsympathetic to the built form of the CAC with respect to the City Hall, Civic Theatre, NESCA House and the Frederick Ash Building in particular, and to the Newcastle City Centre Heritage Conservation Area in general. This would certainly have occurred had the awning precisely affected the basically cylindrical form of the building, or obscured that cylindrical form. The introduction, instead, of an elliptical awning avoids an inauthentic repetition of the circular form, which would have detracted from the existing form of the building. The lightness and connection of the awning to the building both minimises the modification of fabric and allows the form of the building to be understood by diverse audiences.”*

Officer's Comment

The above comments are noted and it is agreed that the proposed alterations and additions have been designed in an appropriately sensitive way such that detrimental impacts on the heritage conservation area and the nearby heritage items have been avoided.

The Heritage Impact report lists the following design options that were considered but discarded, along with relevant reasons for doing so:

- i) *“The absolute retention of the current form of the building was considered, but was rejected as preventing a viable adaptive reuse, with such including the need to introduce new amenities, such as the proposed restaurant...”*
- ii) *The setting back of the roof level was considered but was rejected as there would have been so little space around the roof plant as to provide very little, if any, useable space.*
- iii) *It has proved impossible to incorporate the existing waffle ceilings within the proposed accommodation layout, as their geometry will not accommodate retrofitting of the motel rooms, although they will not be concealed in public areas such as the lobby and corridors. In this regard, many potential solutions were explored but were proven to be impracticable without so heavy an intervention as to destroy large areas of the existing ceiling. There therefore proved to be no alternative to the installation of suspended ceilings with hidden pelmet lighting; but this will (a) follow the existing ceiling coffer lines and (b) preserve the existing ceilings in situ.”*

Officer’s Comment

The above comments are noted.

The Statement of Heritage Impact makes the following recommendations to enhance the interpretation of the heritage significance of the conservation area:

- i) *It is recommended that an Archival Photographic Record be made of the exterior of the CAC.*
- ii) *It is recommended that the cast bronze Armorial Bearings of the City of Newcastle atop the revolving door be preserved in situ in informing audiences as to the building’s history. As the use of Armorial Bearings is restricted to the grantee, Council’s permission must be sought.*

Officer’s Comment

The above recommendations are incorporated as recommended conditions of consent. It is noted that CN permission is required to allow the applicant to retain and display the Armorial Bearings of the City of Newcastle above the revolving door entry.

Overall, subject to compliance with the recommended conditions, the heritage impacts of the proposal are considered to be acceptable in that the proposed works do not have unacceptable detrimental impacts on the heritage value of the heritage conservation area or any of the listed heritage items in the vicinity of the site.

Clause 6.1 - Acid Sulfate Soils

The site is affected by Class 4 acid sulphate soils. The proposed development is considered to not require an acid sulfate soil management plan as no work in excess of 2m below natural ground level is proposed.

Clause 6.5 - Public safety—licensed premises

The proposed new restaurant will be a new licensed premises.

Clause 6.5(2) of NLEP 2012 requires CN to consider the potential impact of the development on public safety prior to granting consent to the development.

The application was referred to CN's Licensed Premises Reference Group who have raised no major concerns in regard to the application. In addition, the application was referred to NSW Police who have requested that conditions relating to operating hours, a plan of management, CCTV cameras and maximum patron numbers be incorporated in the consent. The recommended operating hours require the restaurant/bar/lounge to close at Midnight Mondays to Saturdays and 10pm on Sundays, with the sale of liquor via room service being permitted to guests for consumption in their room until 3am. Maximum patron numbers are set at 113 seats for the restaurant, 63 seats for the bar/lounge and 14 seats for the private dining room and boardroom. These matters are included as recommended conditions in the Draft Schedule of Conditions (Attachment B).

Provided the recommended conditions are complied with, it is considered that the proposed new licensed premises will not pose any likely threat to general public safety in the locality.

Part 7 - Additional local provisions—Newcastle City Centre

The site is located within the Newcastle City Centre. There are a number of requirements and objectives for development within the City Centre, which includes promoting the economic revitalisation of the City Centre, facilitating design excellence and protecting the natural and cultural heritage of Newcastle. The proposal is considered to be consistent with the objectives of Part 7 of NLEP 2012.

Clause 7.3 - Minimum building street frontage

This clause requires that a building erected on land in the B3 Commercial Core zone is to have at least one street frontage of a minimum of 20m in length. The proposed development is consistent with this standard, having a frontages of 24.05m to King Street and 30.54m to Burwood Street.

Clause 7.4 - Building Separation

This clause requires that a building is to be erected so that the distance "*to any other building is not less than 24 metres at 45 metres or higher above ground*". This requirement does not apply to the proposal as it does not involve the erection of a building of 45m or higher above ground.

Clause 7.5 - Design excellence

This clause applies to a proposal involving additions or external alterations to a building, if those additions or external alterations are, in the opinion of CN, significant. The proposed additions and external alterations are considered to be significant, so this clause applies to the assessment of the application.

Sub-clause 7.5(2) stipulates that CN is not to grant consent to the development unless it considers that the development exhibits design excellence.

The proposed development is considered to satisfy the design excellence criteria of NLEP 2012 and it is considered to be of an appropriately high standard of architectural quality.

The proposal does not generate a requirement to undertake an architectural design competition in accordance with this clause, as the height of the proposed building is beneath the 48m trigger height for such a process and the site is not identified as a key site.

The application was referred to CN's UDCG as part of the assessment of the application. The UDCG provided initial feedback to ensure the overall design achieved design excellence.

The plans were subsequently amended and are generally in line with the recommendations from the UDCG. It is considered that the amended plans have adequately addressed the recommendations of the UDCG and satisfy the design excellence criteria.

Clause 7.6 - Active street frontages in Zone B3 Commercial Core

NLEP 2012 requires an active street frontage for buildings on land that is zoned B3 Commercial Core. This clause is limited in its definition of what an active street frontage is by referring to street frontages used for business premises or retail premises only. However, the objective of the clause *“to promote uses that attract pedestrian traffic along street frontages”* is achieved by the proposal in that the hotel accommodation use with its ancillary activities, such as the ground level café and the associated new stairs and public seating to Wheeler Place will activate the street frontages and the frontage to the pedestrianised Wheeler Place.

The proposal is therefore considered to satisfy the objective and intent of this clause.

Clause 7.10 - Floor space ratio for certain development in Area A

The subject site is not identified as being within 'Area A' on the Floor Space Ratio Map. Accordingly, the provisions of this clause do not apply to the proposal.

The floor space ratio of the proposal is addressed under Clause 4.4 of NLEP 2012 in this report.

Clause 7.10A - Floor space ratio for certain other development

This clause limits floor space ratio for development of a site with an area of less than 1,500m².

The site of the proposed development has an area of greater than 1,500m², so the provisions of this clause do not apply to the proposal.

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

There is no exhibited draft environmental planning instrument relevant to the application.

5.3 Any development control plan

Newcastle Development Control Plan (NDCP 2012)

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

Tourist and Visitor Accommodation - Section 3.09

The only relevant provision in this section of the NDCP 2012 is the following aim:

“To encourage tourist and visitor accommodation where permissible and ensure that tourist and visitor accommodation has minimal effect on surrounding development and the environment.”

The applicant submits the following in relation to this aim:

“The proposal meets the aims of the NDCP 2012 by providing a 130 room boutique hotel to meet strong demand for tourist and visitor accommodation in the City Centre. The proposed use will complement surrounding land uses.....no adverse impacts on nearby development, the environment, heritage, traffic or parking are anticipated...The site is considered entirely appropriate for the proposed hotel use.”

It is agreed that the subject building is an ideal site for a hotel use and that this use would not have any significant detrimental impacts on surrounding development or the environment.

Flood Management - Section 4.01

The site is potentially affected by localised flash flooding, including the potential for some overland flows through the area. Advice from CN's Senior Development Officer (Engineering) indicates that:

- a) The site is categorised as a low risk site with respect to flooding risks.

- b) The level of the driveway entrance to the basement of the building, from Burwood Street, has already been raised to mitigate the potential for flooding of the basement. The driveway level is acceptable.
- c) Proposed air intake vents, along the western façade of the building have the potential to allow flood water to enter the basement. The vents should be installed above the level of the probable maximum flood.
- d) New electrical elements and service openings that could potentially be affected by flooding should be protected from the potential flood impact.
- e) Future works to mitigate drainage issues in Cooks Hill may lead to the installation of a main drainage pipe system that passes between City Hall and the subject site.

Recommended conditions, to mitigate the identified potential flooding impacts, have been included in the Draft Schedule of Conditions (Attachment B). Subject to the imposition of these conditions, the proposal is considered to be acceptable in relation to flooding.

Mine Subsidence - Section 4.03

The site is within a proclaimed Mine Subsidence District and approval for the proposed development is required to be granted by Subsidence Advisory NSW.

Safety and Security - Section 4.04

The application was referred to NSW Police who have raised no objections to the development, subject to conditions that are incorporated within the recommended conditions of consent.

The hotel will employ CCTV and lighting around the immediate area of the building. There is good passive surveillance opportunities from within the building, while the 24 hour operation of the hotel and the activity it will generate is likely to reduce the potential for crime in the vicinity of the hotel. The proposal is considered to appropriately address this section of the NDCP 2012 and Crime Prevention Through Environmental Design principles.

Social Impact - Section 4.05

The proposal does not trigger the need for a social impact statement and, subject to recommended conditions, is considered unlikely to result in any significant negative social impacts. The establishment of a hotel of this nature is likely to stimulate positive social impacts, including maintaining a 24 hour operation within this locality and increasing social activity, such that the Civic area will become a more attractive and safer social gathering place in the future, as well as stimulating higher attendances at local cultural events.

Soil Management - Section 5.01

An erosion and sediment control plan has been submitted in support of the application and will be required to be implemented during construction as a condition of consent.

Land Contamination - Section 5.02

Land contamination has been previously discussed in this report in relation to SEPP 55.

Vegetation Management - Section 5.03

Tree removal and landscape works are discussed earlier in section 5.1 of this report, in association with the SEPP 65 'Landscape' Design Quality Principle.

Aboriginal Heritage - Section 5.04

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

Heritage Items - Section 5.05

This section of the NDCP 2012 applies as the site is within the vicinity of a number of heritage items. It is considered that the proposal appropriately respects the setting and significance of the surrounding listed heritage items, particularly in terms of the additional floors proposed and the relationship of these additions to the City Hall, for reasons previously discussed within this report.

Heritage impact is discussed earlier in this report under Clause 5.10 Heritage Conservation of NLEP 2012.

Archaeological Management - Section 5.06

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

Part 6.00 Locality Specific Provisions

Newcastle City Centre - Section 6.01

6.01.02 - Character Areas

The subject site is located in the Civic Character Area. NDCP 2012 Principles for the Civic Character Area that are relevant to the proposal are the following:

- i) *The pedestrian connection linking a number of the city's cultural buildings and spaces is reinforced, between Newcastle Art Gallery, through Civic Park and Wheeler Place, past the Newcastle Museum to the foreshore of the Hunter River.*

- ii) Visual and physical connections through the area and between Civic and the Hunter River foreshores are opened.*
- iii) Public open space in the heart of Civic is improved and expanded through the addition of the Civic Link to complement and enhance Wheeler Place.*
- iv) Development along the publicly accessible spaces, lanes or through-site links provide a building address to encourage activity, pedestrian and cycleway movement, and improve safety.*
- v) Mid-winter lunch time sun access is protected to the footpath on the south side of Hunter Street and to Wheeler Place, Civic Link, Civic Park and Christie Place.*
- vi) Development is encouraged that will support the role of Civic as the primary administrative, cultural and educational centre of Newcastle.*

The proposal is consistent with the above principles. It maintains all of the existing pedestrian connections around the CAC building. Visual connections through the Civic area are not impacted by the development. Wheeler Place is enhanced with the proposed new stairs and seating opening out onto this public area and encourages activity and movement at this edge of the CAC building.

Mid-winter lunchtime sun to Wheeler Place is not affected by the proposal. In relation to mid-winter lunchtime sun to Civic Park, the additional shadow cast by the proposed additions falls on the section of Civic Park that is already heavily shaded by trees. There is a significant amount of area within the park that is not overshadowed during midwinter. Consequently, the shadow impact of the proposal is considered to be not significant.

The addition of a boutique hotel in the Civic area supports the role of this area as the primary cultural centre of Newcastle, by providing high end accommodation for travellers attending cultural events in the area.

6.01.03 - General Controls

The proposal adopts the street wall height of the existing building, with the additions slightly set in from the outer edge of the upper portion of the building. This is considered an acceptable treatment. Building separation to adjacent buildings remains unchanged from the existing situation. The additional building bulk created by the addition is considered to be sufficiently restrained and sensitively treated in terms of design and materials.

The proposed awning is considered to be consistent with the relevant Performance Criteria A7.1 of the NDCP 2012, which stipulates that awnings provide shelter for public streets where most pedestrian activity occurs. Flat awnings with a low profile, as proposed, are encouraged as an acceptable solution in the Newcastle City Centre.

The amended porte cochere design is considered to successfully balance the need for this facility to service the future hotel against the need for pedestrian priority to be maintained in the street spaces and pedestrian connections around the CAC building. The proposed new work will enhance the activation of the frontage of the CAC building to Wheeler Place. It will also enhance the amenity of this pedestrianised space.

It is noted that the stairs and seating to Wheeler Place will extend beyond the property boundary into Wheeler Place by approximately 2.5m and that it will necessitate the relocation of the existing 'Bykko' bicycle rack in Wheeler Place. This relocation is recommended to be conditioned to be undertaken at the developer's expense, to the specifications of the bicycle service provider and in consultation with CN in terms of its new location. The stairs and seating proposed in Wheeler Place is discussed further in section 5.6 of this report.

Similarly, the proposed porte cochere is likely to necessitate the relocation of a public phone in the King Street frontage and adjacent to the pedestrian crossing over King Street. If required, the decommissioning and relocating of this public phone will be required to be undertaken at the developer's expense, to the specifications of Telstra and in consultation with CN in terms of its new location.

The proposal will not have any detrimental impact on any significant views or vistas. It will activate the street edge appropriately.

6.01.04 - Key Precincts – C. Wheeler Place

The subject site is located within the defined boundaries of the Wheeler Place Key Precinct. The desired future character for the Wheeler Place Key Precinct is as follows:

"The civic importance of the precinct will be reinforced by improving pedestrian access through the precinct and linkages to Newcastle Museum and the foreshore in the north and Darby Street to the east. Major new educational facilities will be provided through the redevelopment of the Civic Arcade site for new facilities for the University of Newcastle."

The proposal is considered to be consistent with this desired future character. The amended porte cochere design does not impede pedestrian linkages to Newcastle Museum and the foreshore and maintains pedestrian linkages to Darby Street by keeping vehicular traffic restricted to the King Street road reserve and leaving a generous space for pedestrians between the CAC building front stairs and the porte cochere kerb. The proposed removal of the existing raised planter beds at the King Street frontage to the site removes this existing element from obstructing pedestrian flow along King Street, from and towards Darby Street.

The following Performance Criteria for the Wheeler Place Key Precinct are relevant to the assessment of the subject development.

C1 *Pedestrian permeability and amenity is improved.*

C2 Building form integrates with existing heritage character and retains contributory buildings.

C3 Wheeler Place is designed to support a range of uses and events.

C4 Servicing and access is designed to minimise conflicts with pedestrians.

The proposal is considered to meet the above Performance Criteria in the following ways:

C1. The proposed awning and the removal of the existing planter box in the King Street frontage will facilitate pedestrian permeability and enhance pedestrian amenity.

C2. The proposal ensures the continued retention of the contributory CAC building with its adaptive reuse, converting it into a boutique hotel.

C3. The proposed seating in Wheeler Place adds seating to facilitate audience comfort at future events based in Wheeler Place.

C4. The amended porte cochere design and proposed internal servicing of the hotel at basement level ensures that service and access is appropriately designed to minimise conflicts with pedestrians.

Heritage Conservation Areas - Section 6.02

This section of the NDCP 2012 applies as the site is located within the Newcastle City Centre Heritage Conservation Area.

It is noted that section 6.02 of the NDCP 2012, Heritage Conservation Areas, has been amended, with the amendment coming into effect on 6 August 2019.

This does not change the heritage impact assessment undertaken previously in this report against clause 5.10 of NLEP 2012, which concludes that the heritage impact of the proposal on the heritage conservation area is acceptable.

Landscape Open Space & Visual Amenity - Section 7.02

Consideration of issues covered in this section of the DCP have been discussed earlier in this report in the 'Landscape' Design Quality Principle section of SEPP 65.

Traffic, Parking & Access - Section 7.03 and Movement Networks – Section 7.04

Vehicular Access

CN's Senior Development Officer (Engineering) has recommended some measures to improve safety in relation to vehicles exiting from the basement of the building, as follows:

- i) *Installation of convex mirrors for exiting vehicles to view pedestrians on the footpath area on Burwood St for safety.*
- ii) *Installation of signs to give way to pedestrians and signs indicating to pedestrians to be aware of exiting vehicles.*
- iii) *Installation of driveway safety light indicators. This will need to be activated for exiting vehicles.*

Conditions are recommended to require the above measures.

Porte Cochere

A porte cochere is proposed for the King Street frontage of the building as a drop-off/pick-up area for hotel guests.

The proposal has received support from the Newcastle City Traffic Committee (NCTC), subject to further design development. An updated concept plan has been prepared, with in-principle support for a proposal that will allow for improved pedestrian access in the area.

The design of the porte cochere was based on the following criteria, established with the involvement of CN staff:

- 1) Allow for the retention of the parking spaces on the King Street frontage
- 2) Allow for the parking time limits to be maintained
- 3) Hotel will not have sole use of the parking spaces
- 4) Maintain at least a clear 1.2m wide footpath within the road reserve for pedestrian accessibility
- 5) Maintain the pedestrian right of way access within the property
- 6) Allowance for additional distance between the parking bay and the cycleway on King St for safety of cyclists
- 7) Opportunity for at least one additional on-street parking space
- 8) Opportunity for buses to park within the indented parking bay
- 9) Improve the pedestrian path of travel along the King Street frontage via removal on the planter boxes and landscape improvements
- 10) Improve traffic safety at the intersection of Burwood Street and King Street via kerb extensions and potential footpath continuation construction
- 11) Allow for footpath continuation on Burwood Street/King Street intersection for pedestrian management.

The need for footpath continuation over the intersection of King Street and Burwood Street was considered. However, the low traffic levels on Burwood Street would not justify the need for an altered pedestrian crossing at this location. Furthermore, raised structures may affect existing overland flow paths for stormwater. A raised pedestrian crossing has therefore not been required in this instance.

The detailed design of the porte cochere, including street tree removal and planting, parking and pavement design, signs and line marking, associated civil, street lighting

and services, and drainage works will need to be resolved as part of a separate application under the *Roads Act 1993*. Relocation of the public phone, currently located between the building and King Street, will need to be done in consultation with Telstra and CN.

Conditions are recommended to ensure that the details of the porte cochere concept are approved before the construction certificate application stage.

Parking Demand and Management

a) Off-Street Parking

The provision of car parking spaces is generally based on the CBD parking rate of 1 space per 60m² of gross floor area (GFA). In assessing the car parking provisions, the proposed development has been compared to the existing use of the site, which has a GFA of 4726m².

Based on the current CBD parking rate, a total of 79 parking space is required for the existing building, which has 51 spaces with the basement, equating to a historic deficiency of 28 off-street parking spaces.

The proposed GFA is 6216m². Based on the CBD parking rate, a total of 104 parking spaces is required.

Taking into account the current parking deficiency, the proposed additions to the building generate a requirement for an additional 25 off-street parking spaces that are not provided for. The provision of additional off-street parking on the site is not practicable.

The applicant has submitted a traffic report that supports the adequacy of on-site parking provisions to meet the demands of the proposed development.

The development has provision for bicycle parking and an end user facility within the building. There is also spaces available for motorbike parking in the basement. A minimum of 15 bicycle spaces (for staff and visitors) and at least 3 motorbike parking spaces are required to be provided.

The proposed Porte Cochere parking scheme will be used as a drop-off/pick-up point for users of the propose hotel development, the general public and for any bus transportation. The area is proposed to be serviced as valet parking with a service desk to assist hotel guests. This will allow for improved parking management of the Porte Cochere and the available basement space.

The proposed parking management arrangements are generally similar to many other five star rated hotels. The valet management of the public domain areas along King Street will ensure that traffic and pedestrian flow is not unduly impacted.

Based on an assessment of the submitted traffic report, it is considered that the available parking on the site is sufficient for the proposed development. It is noted that the primary use of proposed additional floor space, as a restaurant and bar, is

likely to be by guests of the hotel, which limits the demand for parking that arises from the additional floor area.

The provision of off-street parking is considered to be well within the extent of what is needed to sustain the development, without having a major impact on on-street parking in the local area.

b) Waste

Waste collection area has been provided within the entry from Burwood St to the proposed loading area. The development waste management will be serviced by small service delivery vehicles (ie Small Rigid Vehicles).

The servicing of the development can therefore be managed without impacting on public domain areas.

Traffic Generation

c) Construction Traffic

The developer will need to seek separate approval for any necessary loading zones during construction.

The developer will be required to address how construction traffic will be managed, including staff parking and trades parking management. As recommended with draft conditions, a construction traffic management plan will need to be approved prior to commencement of construction.

d) Development Traffic

The submitted traffic report has considered the issues surrounding traffic generation from the proposed development. The intersection of Burwood Street and King Street has been assessed to be operating at good levels of service and the proposed development will not generate a change that will impact on traffic flows on King Street.

RMS have also reviewed the application and have not raised any concerns.

It is noted that the proposed development is in relatively close proximity to the Newcastle Transport Interchange and the Civic light rail station and also has access to good bus services on King Street.

The submitted Traffic Report and subsequent responses have demonstrated that the development will not cause traffic delays or impact traffic flows and additional works in the public domain will assist in pedestrian safety and movement. It is considered that traffic generation from the proposed development will not have a significant impact on the road network.

Conclusion

Noting the above discussion, it is considered that the parking provision of the proposal, as well as its servicing, traffic, pedestrian and bicycle movement impacts, are acceptable and can be adequately managed such that the development does not have any material detrimental impacts on the surrounding road, pedestrian and cycleway system or on public safety, subject to compliance with recommended conditions.

Energy Efficiency – Section 7.05

The proposal is acceptable having regard to this section.

Stormwater- Section 7.06 & Water Efficiency - Section 7.07

The proposal primarily utilises the existing stormwater management infrastructure of the building. Drainage from the proposed awning is to be connected to the existing drainage system, which is available along the King Street frontage of the site.

The proposed stormwater management plan is acceptable, subject to recommended conditions of consent.

Waste Management - Section 7.08

The applicant has prepared a waste management plan for operational waste, which addresses waste storage and collection. Waste and recyclable material will be collected by waste collection vehicles from the basement loading dock. These vehicles will be able to enter and exit in a forward direction. Demolition and waste management will be subject to conditions recommended to be included in any development consent to be issued.

Advertising and Signage - Section 7.09

The proposed building identification signage has been assessed previously in this report against the SEPP 64 requirements and is considered to be acceptable, subject to a condition requiring the relocation of a proposed pylon sign from Wheeler Place to be within the boundaries of the site.

Street Awnings and Balconies - Section 7.10

This section of the NDCP 2012 applies to any development involving the erection of awnings or balconies over the road reserve. The southern tip of the proposed awning encroaches over the King Street road reserve. The design of the awning is also discussed earlier in this report in relation to the comments by the UDCG and SEPP 65 design principles assessment.

7.10.01 - Street awnings over public roads

The provision of a street awning on the site is considered to be appropriate given the current lack of weather protection for pedestrians in this location and the high

pedestrian activity in and around the site. The awning design is considered to be compatible with street trees in the vicinity and compatible with the scale and architecture of the building.

The form and design of the street awning does not need to '*unify the streetscape*' in this location as it is a single awning with no connecting street awnings near it. It can therefore respond appropriately to the unique cylindrical design of the building without copying it, by providing an elliptical shape. In this case, it is considered to not be appropriate to extend the awning across the entire site frontage but to extend it around the immediate area of the building and where weather protection is most needed, over the porte cochere and café terrace areas. Given that the depth of the awning is over 10m at its widest, over the porte cochere, three supporting posts are proposed. The posts are located within the boundaries of the site. Supporting posts are considered necessary for public safety to ensure appropriate support for the structure.

7.10.03 - Design requirements for awnings and balconies

The setback of the awning fascia from the street kerb is variable, given the curved external edge of the awning design. This is considered to be acceptable.

The proposed posts meet the minimum 750mm setback requirement from the kerb. The clearance of the awning soffit over the footpath is well above the minimum 3m requirement.

The structural design of the awning will be required to be resolved as being compliant with the *Building Code of Australia*, at Construction Certificate stage.

The NDCP 2012 discourages fully glazed awnings due to glare, heat gain and the need for regular cleaning. In this instance, the glazed awning is considered acceptable. A condition is recommended, that the awning be constructed of low glare material and be regularly cleaned to avoid any unsightly build up of dust or other wind-blown matter.

A condition is recommended requiring that the area beneath the awning on the southern side of the building (ie the porte cochere and main pedestrian entry) be appropriately lit at all times.

The NDCP 2012 also requires regular maintenance to ensure the continuing structural integrity and attractive appearance of the awning. In this regard, a recommended condition of consent requires the submission of a maintenance plan that includes the regular inspection of structural components, regular maintenance of guttering and downpipes, regular cleaning and replacement of defective lighting or other deteriorated components of the awning.

7.10.04 - Use of public land

This section of the NDCP 2012 deals with the private use or encroachment of structures onto/over the public road or other public land. Such encroachments may

incur a one-off user charge as a condition pursuant to the *Roads Act 1993*. The NDCP 2012 also states that CN will consider applications to allow encroachments other than awnings and balconies on their individual merits and that any proposal needs to be justified in terms of urban design and public benefit. The proposed new stairs and public seating that extends into Wheeler Place is not considered to be an encroachment into the public domain. This is discussed in more detail later in this report at section 5.6 of this report under '*Works in the Public Domain*'.

Public Participation - Section 8.0

The proposal was notified to neighbouring properties in accordance with the provisions of the NDCP 2012. One submission was received objecting to the proposal.

Further comments regarding the submission are provided in Section 5.8 of this report.

Development Contributions

Sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979* enable CN to levy contributions for public amenities and services. The proposed development would attract a development contribution to CN, as detailed in CN's Development Contributions Plan.

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

5.4 Planning agreements

No planning agreements are relevant to the proposal.

5.5 The regulations (and other plans and policies)

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

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

Impacts upon the natural and built environment have been discussed in this report in the context of relevant policy, including NLEP 2012 and NDCP 2012 considerations. In addition, the following impacts are considered relevant:

Works in the Public Domain

- a) Wheeler Place

As previously discussed within this report, the proposed stairs and seating fronting onto Wheeler Place extend from within the site and into Wheeler Place by approximately 2.5m. These works are considered to be desirable as they assist in activating this interface between the CAC building and Wheeler Place. The UDCG has supported this feature of the proposed development.

It is noted that there are existing easements at this location in Wheeler Place as well as a recently installed electric bicycles parking hub. The proposal will therefore need to be separately assessed and approved by CN Property Management and Asset owners formally to ensure that the impact from the proposal can be managed. Consultation has been undertaken with CN's Property Services and Strategy teams and also with CN's Civic Services team, concerning these works, and in-principle support has been granted.

The proposed public seating is partially within Wheeler Place and partially within the development site. Having discussed this matter with CN's Property Services team and, given that the intention of the seating is that it will remain accessible and be utilised by the general public, this structure is considered to not be an encroachment on CN land but a future CN asset available for use by the public. It will be necessary for an easement to be created over the portion of the stairs and public seating that is within the boundaries of the development site, to ensure that all of the stairs and public seating is publicly accessible for the lifetime of the development. The cost of the creation of the easement will be required to be borne by the developer. An appropriate condition is recommended.

A condition of consent is also recommended requiring that the existing share bicycle hub be relocated at the developer's expense and that formal approval for the works in Wheeler Place be sought with the relevant CN asset owners.

b) Wheeler Plaza / City Hall Public Domain

Proposed tree planting associated with the development proposal includes a scheme of red maple street trees in Wheeler Plaza, in-between the CAC building and City Hall. The proposal has been reviewed in consultation with the City Strategy team. It is noted that CN is currently reviewing the area around City Hall and Wheeler Place for potential upgrade of the precinct.

At this stage, CN has multiple unknown factors to consider for the precinct and the proposed trees may impact on the future planning of the area, including drainage works. In addition, as discussed under the '*Landscape*' section of the SEPP 65 Design Quality Principles, City Greening object to the species proposed to be planted and concerns are raised regarding the density and location of the tree planting. City Greening also object to any proposed tree removal at this stage due to a lack of sufficient evidence of the necessity of this tree removal.

Consequently, no proposed tree removal or tree planting that is outside the boundaries of the development site and in the public domain is currently supported. A recommended condition of consent requires that the developer seek separate

consent for any tree removal and bear the cost of any future tree planting in the public domain with CN undertaking the work.

c) Protection of CN Infrastructure

In order to ensure that any potential damage or impacts to the publicly accessible areas around the development site are able to be managed, a condition is recommended requiring that the developer prepare a dilapidation report prior to commencing construction.

Acoustic Impacts

The proposed restaurant and bar is internal space. The café terrace is the only potential part of the development that may have some potential to generate noise, although this space is some distance away from the nearest residence and there are other noise generating areas such as the beer garden to the Clarendon Hotel, which would be more likely to generate noise at night time. It is also noted that the proposed hotel will have an internal loading bay at basement level.

However, given the 24 hour operation of the hotel, there is some potential for noise disturbance. A condition is recommended to prohibit the operation of the hotel causing any unreasonable disturbance to the amenity of the area due to excessive noise.

Bulk and Scale

The additional bulk and scale resulting from the proposed additional two storeys being added to the building have been assessed as being acceptable, notwithstanding the proposed variation to the maximum building height development standard. Refer to the assessment of these issues earlier in this report under Clause 4.6 of NLEP 2012.

Overshadowing

As discussed under the NLEP 2012 Clause 4.6 assessment, there will be some additional overshadowing of Civic Park arising from the proposed additional storeys, however, this additional shadowing is considered to be relatively minor and would not have any material impact on the amenity and utility of this public space.

The proposed development will not have any undue adverse impact on the natural or built environment.

The development is compatible with the existing character, bulk, scale and massing of development in the immediate area.

It is considered that the proposal will not have any negative social or economic impacts.

5.7 The suitability of the site for the development

The site is within a proclaimed Mine Subsidence District and separate approval for the proposed development is required to be granted by Subsidence Advisory NSW.

The site is suitable for the proposed development as it is located in the City Centre, located within easy walking distance of multiple local cultural, recreational, educational and entertainment facilities that future guests of the hotel may wish to access.

The existing building incorporates an accessible ramp to the main entry and level walkways within all areas of the building. The car park valet system will operate 24 hours per day and will cater to people with a disability such that they will not be driving their vehicles into the basement car park. All of the public areas of the hotel will be accessible and the restaurant has a dining area and bar area accessible from the lifts. The submitted Statement of Environmental Effects confirms that eight of the proposed rooms will be accessible to people in wheelchairs.

The constraints of the site have been considered in the proposed development, which includes flooding, contamination, acid sulfate soils, mine subsidence and heritage.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

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

The application was notified in accordance with CN's public participation policy. One submission was received during the notification period.

The key issues raised in the submission have been discussed previously in this report. The following table provides a summary of the issues raised and the relevant section of the report where these issues are addressed.

Issue	Comment
Inadequate on-site parking	This concern is discussed in section 5.3 of this report under ' <i>Traffic, Parking & Access – Section 7.03</i> ' of the NDCP 2012 assessment.
Excessive building height	This concern is discussed in section 5.1 of this report under the NLEP 2012 assessment in relation to clauses 4.3 and 4.6.
Heritage impact	This concern is discussed in section 5.1 of this report under the NLEP 2012 assessment in relation to clause 5.10.
Overshadowing Civic Park	This concern is discussed in section 5.1 of this report under the NLEP 2012 assessment in relation to clause 4.6. It is also discussed in section 5.3 under the ' <i>Newcastle City Centre</i> ' NDCP 2012 assessment.

5.9 The public interest

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development, by the adaptive re-use of a building, rather than redeveloping the site for a new use.

The proposed development is considered to be in the public interest in terms of its likely promotion of Newcastle as a desirable destination point and providing a previously unavailable high quality accommodation option for visitors in a central location within the city.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

The proposed development will allow for the orderly and economic development of the site.

6.0 CONCLUSION

The proposal is acceptable against the relevant heads of consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in **Attachment B** are included in any consent issued.

ATTACHMENTS

Item 9 Attachment A: Submitted Plans - Under Separate Cover - 282 King Street Newcastle

Item 9 Attachment B: Draft Schedule of Conditions - 282 King Street Newcastle

Item 9 Attachment C: Processing Chronology - 282 King Street Newcastle

Item 9 Attachment A

Submitted Plans - Under Separate Cover - 282 King Street Newcastle

Item 9 Attachment B

DRAFT SCHEDULE OF CONDITIONS



Application No: DA2019/00348
Land: Lot 1 DP 1250295
Property Address: 282 King Street Newcastle NSW 2300
Proposed Development: Tourist and visitor accommodation (adaptive reuse as a boutique hotel) alterations and additions and signage

SCHEDULE 1

APPROVED DOCUMENTATION

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan no/Supporting Document	Reference/Version	Prepared by	Dated
Site Plan - Porte Cochere	A003 Revision B as amended in red	EJE Architecture	8/07/2019
Site Plan - Proposed	A01.2 Revision E as amended in red	EJE Architecture	26/06/2019
Sub-Basement Level 2 Floor Plan	A03 Revision J	EJE Architecture	20/03/2019
Sub-Basement Level 1 Floor Plan	A04 Revision J	EJE Architecture	20/03/2019
Basement Level Floor Plan	A05 Revision K	EJE Architecture	21/03/2019
Ground Level Floor Plan	A06 Revision T as amended in red	EJE Architecture	26/06/2019
Mezzanine Level Floor Plan	A07 Revision N	EJE Architecture	20/03/2019
Level 1 Floor Plan	A08 Revision N	EJE Architecture	20/03/2019
Level 2 Floor Plan	A09 Revision N	EJE Architecture	20/03/2019
Level 3 Floor Plan	A10 Revision M	EJE Architecture	20/03/2019
Level 4 Floor Plan	A11 Revision M	EJE Architecture	20/03/2019
Level 5 Floor Plan	A12 Revision P	EJE Architecture	20/03/2019
Level 6 Floor Plan	A13 Revision N	EJE Architecture	20/03/2019
Level 7 Floor Plan	A14 Revision N	EJE Architecture	20/03/2019
Rooftop Level Floor Plan	A15 Revision Q	EJE Architecture	20/03/2019
Plant Level Floor Plan	A16 Revision K	EJE Architecture	20/03/2019
Roof Plan	A17 Revision H	EJE Architecture	20/03/2019
North Elevation	A21 Revision H	EJE Architecture	27/06/2019
East Elevation	A22 Revision H	EJE Architecture	27/06/2019
South Elevation	A23 Revision H	EJE Architecture	27/06/2019

West Elevation	A24 Revision H	EJE Architecture	27/06/2019
Section A-A	A25 Revision J	EJE Architecture	20/02/2019
Stormwater Management Plan	A33 Revision C as amended in red	EJE Architecture	20/03/2019
Erosion & Sediment Control Plan	A34 Revision C as amended in red	EJE Architecture	20/03/2019
3D Perspective 1 - Dusk from South-East	A35 Revision F as amended in red	EJE Architecture	27/06/2019
3D Perspective 2 - Night from North	A36 Revision F as amended in red	EJE Architecture	27/06/2019
3D Perspective 3 - Porte Cochere	A37 Revision D	EJE Architecture	20/03/2019
Signage Details	A38 Revision C as amended in red	EJE Architecture	21/03/2019
Schedule of Materials	A39 Revision D as amended in red	EJE Architecture	20/03/2019
Statement of Environmental Effects	Revision 02 Final	City Plan	25/03/2019
Amended Clause 4.6 Variation Request	Revision 03 Final (Amended)	City Plan	9/07/2019
Statement of Heritage Impact	001-SOHI-005 Rev A	David Campbell	March 2019
Traffic Impact Assessment	P001419 / Ver02	SECA Solutions	21/03/2019
Survey Plans Sheets 1 & 2	19/ 207 /Rev 1	Monteath & Powys	30/05/2019
Operational Waste Management Brief	Rev 4	TTM	22/03/2019
AHIMS Search	-	Office of Environment & Heritage	11/03/2019
BCA Report	City of Newcastle - DA (Rev 1)	Newcert	5/06/2019
Mine Subsidence Impact Statement	-	Northrop	9/07/2019
Mine Subsidence Peer Review	NOR-016/1	Ditton Geotechnical Services Pty Ltd	30/06/2019

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. The proposed awning is to be designed in a manner that is consistent with Element 7.10 'Street Awnings and Balconies' of the Newcastle Development Control Plan 2012. The design will need to consider the existing light poles and the impact of any infrastructure. Under awning lighting is to be provided to the area in accordance with AS1158 and City of Newcastle's City Centre Public Domain Manual. The design of the awning should allow for street tree planting and the glazed awning is not to generate more than a low level of reflectivity of sun glare. Drainage components such as downpipes are to be concealed where possible. Full details are to be included in documentation for a Construction Certificate application.

Note: A separate Section 138 *Roads Act 1993* application will be required with

respect to parts of the awning that extend over a public road.

3. Traffic management devices in the form of safety mirrors, Stop and Give Way to pedestrian signs, Line markings and driveway safety light indicators are to be installed within the property at the Burwood Street driveway entry. Such devices are to be constructed in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
4. The whole of the proposed structure below the known flood level (3.90m Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters or which has potential to impact on the basement areas being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters. Full details are to be included in documentation for a Construction Certificate application.
5. The proposed lighting of the premises, including sign illumination, is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, so as to not give rise to obtrusive light, interfere with traffic or pedestrian safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.
6. A dilapidation report, prepared by a suitably qualified person, is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate. The dilapidation report is to document and include photographs of the current condition of the adjoining areas of King Street, Burwood Road, Wheeler Place and Wheeler Plaza around the development. An electronic copy of the dilapidation report is to be provided to City of Newcastle.
7. The developer is to design and construct the following works in connection with the proposed development, within the public road reserve, at no cost to City of Newcastle and in accordance with City of Newcastle's guidelines and design specifications:
 - a) Porte cochere design on the King Street frontage generally in accordance with the Newcastle City Traffic Committee meeting minutes Item No.103 dated 15/07/2019. The design to include civil works, parking signs, line marking, proposed street tree removal and installation and relocation of any services and associated works.
 - b) Civil works associated with the Porte Cochere including roadworks, kerb and gutter realignment, drainage construction.
 - c) Relocation of the public phone booth. Separate approval may be required from the telephone booth owners and City of Newcastle.
 - d) Footpath paving along King Street and Burwood Street.
 - e) Design of street lighting on King Street / Burwood Street frontages including any lighting of the publicly accessible areas surrounding the building.

Engineering design plans and specifications for the works being undertaken within the public road reserve are to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to City of Newcastle for approval pursuant to Section 138 of the *Roads Act 1993*. The consent

is to be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate.

8. The relevant terms of this development consent are to be incorporated into an operational Plan of Management of the hotel relating to all aspects of the ongoing operation of the hotel use including, but not limited to, hours of operation, waste management including storage and collection, servicing and deliveries, management of the porte cochere, baggage handling between the porte cochere and the hotel, maintenance and cleaning, complaint management, security, staffing, staff training, emergency evacuation, facilitating the access and use of the hotel and its facilities by disabled persons, enforcement of the maximum patron caps applicable to the bar, lounge, restaurant and private dining areas and, management of intoxicated persons on or near the premises. The Plan of Management is to be submitted with the application for a Construction Certificate.
9. The building is to be upgraded to comply with the Performance Requirements of parts C, D, E & F of Volume One of the Building Code of Australia. Full details are to be included in the application for a Construction Certificate.
10. All hotel signage is to be located within the boundaries of the site. In this regard, the proposed pylon sign in Wheeler Place is to be relocated to within the boundaries of the site. Relevant details demonstrating compliance with this condition are to be incorporated into plans submitted with the application for a Construction Certificate.
11. In order to clarify the terms of this consent, the approved design of the porte cochere is depicted on the Site Plan - Porte Cochere numbered A003 Revision B, dated 8/07/2019 and prepared by EJE Architecture. All other plans showing the porte cochere are to be modified to be consistent with the approved design to ensure no conflict between plans submitted with the application for a Construction Certificate.
12. The Developer designing and constructing the following works in connection with the proposed development within Wheeler Place, at no cost to City of Newcastle and in accordance with City of Newcastle's guidelines and design specifications:
 - a) Detailed design including structural design, lighting design, public art and other associated works for the proposed seating.
 - b) Civil works associated with the installation of the public seating, including pavement works, lighting, tactile indicators and hand railings.
 - c) Relocation of existing bicycle hub to an appropriate location, as determined by City of Newcastle. The cost of all works associated with the relocation including electrical works to be borne by the developer.

Design plans and specifications for the works being undertaken are required to be prepared by a suitably qualified practising landscape/structural/architect with experience and competence in the related field and submitted to City of Newcastle for approval. Written consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of any Construction Certificate.

13. A total monetary contribution of \$164,440.00 is to be paid to City of Newcastle, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Notes:

- a) This condition is imposed in accordance with the provisions of *The City of Newcastle S94A Development Contributions Plan 2009* (updated version operational from 15 March 2011). A copy of the plan may be inspected at City of Newcastle's Customer Enquiry Centre, ground floor of the City Administration

Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.
- c) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact City of Newcastle's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

- 14. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.
- 15. On-site parking accommodation is to be provided for a minimum of 51 vehicles, 15 bicycle parking and 3 motorbike parking spaces and meet the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of City of Newcastle's adopted Newcastle Development Control Plan 2012. Details are to be included in documentation for a Construction Certificate application.
- 16. The car parking and vehicular access is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Details are to be included in documentation for a Construction Certificate application.
- 17. Adequate facilities are to be provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being made for regular removal and disposal of same. The required garbage facility is to be suitable for the accommodation of City of Newcastle approved wheel type bins or bulk waste containers. Full details are to be included in documentation for a Construction Certificate application.
- 18. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by EJE Architecture Project No. 12478, Drawing No. A33 Revision C, dated 20/03/2019.

Full details are to be included in documentation for a Construction Certificate application.

19. No tree removal is approved as a part of this development consent. Consent for any proposed tree removal is to be sought and approved under separate application to, and following consultation with, City of Newcastle's City Greening Services. If approved, any tree removal would be carried out by City of Newcastle at the developer's expense.
20. No proposed tree planting outside of the boundaries of the development site is approved under this development consent. All future tree planting sought by the developer to be carried out in the public domain around the development site will be subject to approval by City of Newcastle's City Greening Services and at the developer's expense. The tree selection and location of future street tree planting will be determined by City of Newcastle's City Greening Coordinator in accordance with the City of Newcastle's '*Street Tree Master Plan*'. The location of compensatory tree planting for any future tree removal may not be in the immediate proximity of the site.
21. Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are to be included in the documentation for a Construction Certificate application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

22. Prior to the commencement of works, a Construction Traffic and Parking Management Plan is to be submitted to and approved by City of Newcastle. This plan is to set out the measures to be employed in order to minimise the impacts of construction traffic and construction parking demand on the surrounding area as well as maintain ongoing traffic efficiency and road safety throughout the demolition and construction phases of the development.
23. Prior to the commencement of works, an archival photographic record of the exterior of the building is to be prepared and submitted to City of Newcastle.
24. A separate application is to be lodged and consent obtained from City of Newcastle for all works within the road reserve pursuant to Section 138 *Roads Act 1993*, before the commencement of works.
25. Stormwater is to be conveyed to the existing property stormwater drains by way of a sealed pipe system. The existing drains are to be checked for adequacy and cleared of any obstructions.
26. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
27. All building work must be carried out in accordance with the provisions of the National Construction Code.

28. All building materials, plant and equipment are to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on City of Newcastle reserves including the road reserve is not permitted.
29. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
- Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

30. City of Newcastle's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by City of Newcastle for the duration of demolition and construction work.

Note: City of Newcastle's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Counter at 282 King Street Newcastle.

31. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
- a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

32. All public trees adjacent to the site within the King Street road reserve and within Wheeler Plaza that are not the subject of a separate consent for removal must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual '*Section 8.0 Protection Measures*'.

The tree protection fencing is to remain in place and be maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

33. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for City of Newcastle's approval to position the container on the adjacent public road in accordance with City of Newcastle's adopted Building Waste Container Policy.

34. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at City of Newcastle's Summerhill Waste Management Facility or other

approved site.

35. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to City of Newcastle and the demolisher prior to commencement of work.
36. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
37. An application is to be made to and approved by City of Newcastle for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence is to comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and any relevant approved industry code of practice. Notice of intention of commencement is to be given to SafeWork NSW.
38. The work site is to be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
39. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
40. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:
 - a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site is to be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the 'Blue Book') published by Landcom, 2004.
41. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
 - a) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
 - b) Alter or cease construction work during periods of high wind and
 - c) Erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
42. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to City of Newcastle by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

43. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
- a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
 - b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by SafeWork NSW.
 - c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised City of Newcastle Officers upon request
 - d) Seven working days' notice in writing is to be given to City of Newcastle and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include City of Newcastle's contact telephone number (49742000) and SafeWork NSW telephone number (49212900) and
 - e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
44. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
45. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.
- Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.
46. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
47. Waste management is to be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
- a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and

- d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

48. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
49. Prior to the issuing of the Final Occupation Certificate, an easement burdening the site and benefitting City of Newcastle is to be created over the portion of the site covered by the public seating and stairs fronting onto Wheeler Place to allow public access for the full extent of the public seating and stairs up to the outer edge of the cafe terrace. The terms of the easement are not to be modified without the consent of City of Newcastle. All costs associated with the creation of the easement are to be borne by the developer.
50. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
51. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
52. A copy of the stormwater drainage design plans approved with the Construction Certificate with *'work as executed'* levels indicated, shall be submitted to the Principal Certifying Authority and to City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
53. A maintenance plan for the proposed awning is to be prepared with the aim of ensuring its continuing structural integrity and attractive appearance. The maintenance plan is to include a regime of regular inspection of structural components, regular maintenance of guttering and downpipes and regular cleaning and replacement of defective lighting or other deteriorated components of the awning. A copy of the maintenance plan is to be submitted to the Principal Certifying Authority and to City of Newcastle prior to the issue of an Occupation Certificate.
54. The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height shall be 75mm.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

55. The ongoing operation of the hotel is to be in accordance with the Plan of Management required by Condition 8 of this consent for the lifetime of the development. All staff are to be made aware of and trained regarding the terms of the Plan of Management. The Plan of Management may only be amended in consultation with City of Newcastle and the Newcastle City Police District.

56. On-site car parking accommodation is to be provided for a minimum of 51 vehicles, 15 bicycles and 3 motorbikes and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.
57. Subject to City of Newcastle granting formal permission, the cast bronze Armorial Bearings of the City of Newcastle atop the revolving door at the main entrance to the building is to be preserved in situ in order to inform visitors of the history of the building.
58. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
- (a) the system must record continuously at all times;
 - (b) recordings must be in digital format and at a minimum of six frames per second;
 - (c) any recorded image must specify the time and date of the recorded image;
 - (d) the system's cameras must cover the following areas: i) all entry and exit points on the premises, ii) the footpath and external publicly accessible spaces immediately adjacent to the premises, and iii) all publicly accessible areas (other than toilets) within the premises.
 - (e) the licensee must keep all recordings made by the CCTV system for at least 30 days;
 - (f) the licensee must ensure that the CCTV system is accessible at all times by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage; and
 - (g) the licensee must provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
59. The maximum patron numbers for the food and drink facilities within the hotel are not to exceed the following:
- Restaurant - 113 seats
 Bar/Lounge - 63 seats
 Private Dining and Board Room - 14 seats
60. The hours of operation for the hotel use are approved as 24 hours per day seven days per week, with the exception of the following associated uses:
- The hours of operation for the ground floor cafe use are to be not more than from 5am to 10pm daily.
- The hours of operation for the bar, lounge, restaurant and private dining room are to be not more than the following:

DAY	START	FINISH	
Monday	5am	Midnight	Same day
Tuesday	5am	Midnight	Same day
Wednesday	5am	Midnight	Same day
Thursday	5am	Midnight	Same day
Friday	5am	Midnight	Same day
Saturday	5am	Midnight	Same day
Sunday	5am	10pm	Same day

In addition to the above hours of operation, the following terms apply:

Room service may be provided by the restaurant until 3am daily.

The sale of liquor for consumption on the licensed premises is permitted between Midnight and 3am on any day to a resident (or a guest of a resident while in the resident's company) if consumed within the resident's room.

unless a separate application to vary the hours of operation or trading has been submitted to and approved by City of Newcastle.

61. The driveway crossing, parking areas and stormwater management system are to be maintained for the life of the development.
62. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any 'offensive noise' as defined under the *Protection of the Environment Operations Act 1997*.

Should City of Newcastle consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.

63. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should City of Newcastle consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

64. Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Such areas are not to be used for the storage of goods or waste materials.
65. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.
66. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.
67. The required awning maintenance plan is to be implemented for the lifetime of the awning.

ADVISORY MATTERS

- Development applications are not assessed against the provisions of the National Construction Code. An application to modify the application under the *Environmental*

Planning and Assessment Act 1979 will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.

- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and City of Newcastle is to be notified of the appointment; and
 - c) City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.
- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000*.
- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* is to be submitted to City of Newcastle and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal

liability and even death. Inquiries should provide the property details and the nearest cross street/road.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Newcastle Local Environmental Plan 2012 and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The proposed height of buildings development standard variation, made under Clause 4.6 of the Newcastle Local Environmental Plan 2012, have been considered and accepted.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of City of Newcastle's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.

Item 9 Attachment C

THE CITY OF NEWCASTLE
Report to Development Applications Committee Meeting
on 20 August 2019



PROCESSING CHRONOLOGY

DA2019/00348 – 282 King Street Newcastle

- | | |
|------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 6/03/2019 | - Pre-DA Meeting |
| 1/04/2019 | - DA Submitted |
| 17/04/2019 | - UDCG Meeting |
| 24/05/2019 | - Request for additional information |
| 5/06/2019 | - Applicant's response to UDCG comments |
| 14/06/2019 | - Meeting between Council officers and applicant to discuss porte cochere design and response to UDCG comments |
| 25/06/2019 | - Response to request for additional information received (with exception of requested mine subsidence report) |
| 27/06/2019 | - Amended architectural plans and revised UDCG response received |
| 7/07/2019 | - Revised Clause 4.6 request, based on amended plans requested |
| 9/07/2019 | - Revised Clause 4.6 request received |
| 15/07/2019 | - Amended porte cochere design considered and approved at Traffic Committee. Requested Mine Subsidence report received from applicant. |
| 16/07/2019 | - Mine Subsidence report referred to Subsidence Advisory NSW |

ITEM-10 **DAC 20/08/19 - DA2018/01498 - 20 DENISON STREET, NEWCASTLE WEST - DEMOLITIONS OF EXISTING STRUCTURES, ERECTION OF A 20 STOREY MIXED USE DEVELOPMENT**

APPLICANT: **NEWCASTLE DIAMOND PTY LTD**
OWNER: **NEWCASTLE DIAMOND PTY LTD**
NOTE BY: **GOVERNANCE**
CONTACT: **DIRECTOR GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMENT**

PART I

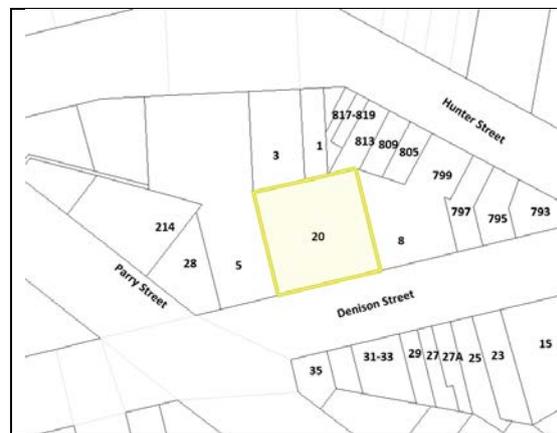
BACKGROUND

An application has been received seeking consent for demolition of structures and erection of a 20-storey mixed use development at 20 Denison Street Newcastle West.

The submitted application was assigned to Gareth Simpson, Development Officer for assessment.

The application is referred to the Development Applications Committee for determination as the construction value of the proposed development (\$27,643,000) exceeds the staff delegation limit of \$10M.

A copy of the plans for the proposed development is appended at **Attachment A**.



Subject Land: 20 Denison Street Newcastle West

The proposed development was publicly notified in accordance with the City of Newcastle's (CN) public participation policy and no submissions have been received in response

Issues

Whether the contravention of Principal Development Standard 4.3 Height of Buildings, under Newcastle Local Environmental Plan 2012 (NLEP 2012), is justified.

Conclusion

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

RECOMMENDATION

- A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012, against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the B4 Mixed Use zone in which the development is proposed to be carried out; and
- B. That DA2018/01498 for demolition of structures and erection of a 20-storey mixed use development at 20 Denison Street Newcastle West be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B.

Political Donation / Gift Declaration

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

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

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

PART II

1.0 THE SUBJECT SITE

The subject property comprises Lot 45 in DP 632876 and is a flat, predominately square-shaped parcel of land with an area of 1,636m². The site has frontage to Denison Street of 40.23m and is surrounded by a mix of mainly residential and commercial properties. Directly to the north of the site is an event space called '*The Unorthodox Church of Groove*', which is the subject of a current application for use as a medical centre. The built environment in the locality the site is low rise in character and comprises of one-storey to three-storey buildings, despite the area having a maximum height limit of 60m under NLEP 2012.

The subject site currently accommodates a circa 1970s single-storey steel and brick building positioned along the northern (rear) boundary. The existing building has a floor area of 480m² and comprises of office premises, a showroom and warehouse. A large hardstand area, accommodating approximately 34 at-grade car parking spaces, occupies the front portion of the site. Part of the car parking area is covered by a single-storey, flat roofed canopy, associated with the site's former use as a service station. The site most recently was occupied by *'Life Without Barriers'* and is currently unused.

The site is entirely covered by hardstand, with no landscaping present, and is fenced at the site's front street boundary. Vehicular access to the site is available via two separate driveway crossings from Denison Street.

2.0 THE PROPOSAL

The applicant seeks consent for the demolition of the buildings on the site and the erection of a 20-storey mixed use development comprising of basement car parking, ground level retail use and residential accommodation on the upper floors.

A previous development consent for the demolition of the buildings on the site and construction of a 15-storey mixed use building with a height of 48m was approved by CN on 24 August 2017 (reference DA2016/01341). Construction of the approved development has not commenced and the current application is intended to replace the existing consent.

Car parking is proposed on the basement, ground, first and second floors of the proposed building. The access to the basement car park is located on the eastern side of the Denison Street frontage and is designed to accommodate the size of vehicles using the access while not appearing overly dominant in the streetscape. The basement car park provides an area for waste pick up, ensuring all waste will be managed on site.

Two commercial tenancies are proposed to occupy the majority of the building frontage to Denison Street at the ground floor level. These tenancies will provide activity at street level while also shielding the view of the proposed car parking area behind the tenancies. Car parking on the first and second floors is shielded from view from Denison Street by five two-level dual-key apartments. The design of these units allows for flexibility of use and tenure.

A communal open space area is provided on the roof of the second floor, at the podium level, with the remaining floors further set back, forming the proposed residential tower (ie levels 3-19).

The applicant identifies the following key features of the proposed development:

- i) *"Demolition of the existing building and ancillary development within the site;*

- ii) *Site preparation work including earthworks and installation of ancillary services and infrastructure;*
- iii) *Construction of a 20-storey building accommodating:*
 - a) *235m² of retail floor space fronting Denison Street at ground level;*
 - b) *77 car parking spaces over 4 levels (B-2);*
 - c) *a residents' common room at level 3;*
 - d) *74 x 1, 2 & 3 bedroom residential apartments, including 5 'dual key' studio apartments, over levels 1-19. The mix is as follows:*
 - (a) *9 X 1 bed*
 - (b) *53 X 2 bed*
 - (c) *7 X 3 bed*
 - (d) *4 X Dual key 1 bed*
 - (e) *1 X Dual key 2 bed*
- iv) *Associated vehicular access and service areas; and*
- v) *Podium landscaping and the provision of private and communal open space."*

A copy of the submitted plans is appended at **Attachment A**.

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

3.0 PUBLIC NOTIFICATION

The application was publicly notified in accordance with CN's public participation policy, including a newspaper advertisement.

No submissions were received as a result of the notification process.

4.0 INTEGRATED DEVELOPMENT

The proposal is not '*integrated development*' pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979*.

5.0 PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

5.1 Provisions of any environmental planning instrument

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

This policy applies to the proposed development and contains planning controls for the remediation of contaminated land.

SEPP 55 provides that prior to granting consent to the carrying out of any development on land the consent authority is required to give consideration as to whether the land is contaminated and, if the land is contaminated, whether the land is suitable for the purpose of the development or whether remediation is required.

The site is identified on CN's contaminated land mapping as having operated as a service station in the past, being a potentially contaminating activity. A Detailed Site Investigation (DSI) addressing the contamination was prepared by EIAustralia Pty Ltd 30 December 2018. The DSI confirmed that four underground fuel storage tanks are present on the site. The investigation identified the potential for hydrocarbon impacts in the soil and groundwater.

Following completion of the DSI, a Remediation Action Plan (RAP) was prepared by the proponent in accordance with the NSW Office of Environment and Heritage 2011 Guidelines for Consultants reporting on Contaminated Sites. This RAP incorporated recommendations made in the DSI to ensure that the site is remediated to a condition suitable for the proposed mixed land use.

The following comments were provided by CN's Environmental Protection Officer:

"The ESU considers that providing works are undertaken in accordance with the RAP prepared by EIAustralia dated December 2018, the site can be managed, remediated and validated appropriately so that it does not pose a risk to human health or the environment. This is dependent on further site characterisation, delineation and groundwater testing of the site undertaken prior to construction (as outlined in the RAP).

It is expected that most of the contaminated fill will be removed during the excavation of the underground basement carpark (which extends over most of the site footprint) and disposed of at an appropriately licensed waste management facility.

The site validation report prepared by a suitably qualified expert will be required to document the site suitability for the proposed site upon completion of the remedial works.

Additionally, the ESU requests that a Construction Environmental Management Plan (CEMP) is to be prepared and submitted to Council prior to the commencement of site development work."

Appropriate conditions to address these issues has been included in the Draft Schedule of Conditions (refer to **Attachment B**).

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across NSW, including provisions relating to 'traffic generating development'. The provisions for 'traffic generating development' do not apply as the proposal comprises only 74 dwellings, whereas the trigger in the ISEPP starts at '75 or more dwellings'.

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

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

State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65)

This policy applies to the development of residential flat buildings and aims to improve the quality of residential flat development. SEPP 65 requires the consent authority to take into consideration the advice of a Design Review Panel and the design quality of the development when assessed against the design quality principles and the Apartment Design Guide (ADG). An assessment of the development under the design principles is provided below.

CN's Urban Design Consultative Group (UDCG) reviewed the proposal on three occasions. The first and second reviews took place on 18 April 2018 and 21 November 2018 respectively, prior to the submission of the development application. A third review took place on 20 March 2019, following the submission of the development application. A summary of the UDCG's advice and CN's planning assessment is provided in the table below.

Design Quality Principles	Assessment
<p>Principle 1: Context and Neighbourhood Character</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 <i>As Noted in the Report of the 15/12/2015 UDCG Meeting: The site is located in a quiet section of Denison street between Hunter Street to the north, and King Street to the south. The street is very wide and has mature street trees. Because of the restriction of traffic movements in the street to left-in, left-out at its King Street end, the street has relatively few traffic movements compared to the surrounding roads. This, in combination with the trees and the street width, provides a good basis for developing a pleasant pedestrian environment at street level.</i></p>	<p>It is recognised the proposed development is not in scale with the surrounding buildings which are predominantly one to two storeys in height. The proposed development reflects the future character of the area as defined by development standards that allow for 60 metre buildings and a floor space ratio (FSR) of 6:1). It is considered that the proposal responds to and enhances the qualities and identity of the area based on the envisioned future character.</p> <p>The proposed development is considered to meet this design principle.</p>

<p><i>The site is almost square in shape and is orientated so as the front of the proposed building faces almost due south. It formerly accommodated the Co-op Store's petrol outlet. The surrounding sites are generally smaller in area than the subject site and are geometrically less favourable to siting a rectilinear building. Multiple site amalgamations would be required for any of the adjacent sites to accommodate a tall residential or commercial block. Next door to the site to its west is a three storey residential strata development, constructed upon the former "Steggles" produce store site. This low-scale residential development is approximately ten years old and has a two-storey boundary wall at most of the length of the common boundary, which in a number of locations forms the eastern side of a small private courtyard to the residences.</i></p> <p>21 November 2018 - No Change</p> <p>20 March 2019 -No Change</p>	
<p>Principle 2: Built Form and Scale</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 <i>The documentation provided to the Group laid out a possible pathway for the progression of the design and revisited the analysis of the site and its surroundings. This pathway was supported in principle by the Group.</i></p> <p><i>Four possible options for the residential floors layout were provided, each of which was roughly within an assumed envelope determined by suggested setbacks of between 9 and 12 metres from each of the three non-street boundaries. It was noted that the existing Development Approval was for a lower tower that enjoyed somewhat greater setbacks on the southwestern side and the north-western rear boundary</i></p>	<p>The form and scale of the proposed development is supported. The setbacks of the tower element comply with the ADG setbacks. In addition, the proposed podium has been setback from the street to protect an existing tree in front of the site. The proposal exceeds the maximum prescribed height for the site. The applicant has submitted a Clause 4.6 request to vary the height of buildings development standard. This request has been assessed and the proposed height variation is considered acceptable as detailed below in this report, under the assessment of the provisions of Newcastle Local Environmental Plan 2012.</p> <p>Overall, the proposal is considered to meet this design principle.</p>

than the new analysis suggested. The contextual analysis identified two amalgamated sites within the street-block that were considered likely to support tall developments in the future, of a comparable scale to that proposed for the subject site. The Group noted that other additional sites on the northern and north-western sides of the subject site, could potentially also be the subject of proposals of lesser but still significant height, which may also propose reduced setbacks from the ADG recommendations. This could potentially lead to an unacceptable outcome. It is considered that it is not desirable to adopt setbacks that are less than the ADG minimums.

The suggested modelling of the podium of the development to embrace the presence of the substantial street tree with a curved façade was supported, as was the reduced height of the podium adjacent to the low-scale residential units to the south, and the landscaping of the podium top at this point.

Of the four options for the residential tower layout presented, the Group preferred Option 3, which had its private open spaces for each apartment partially set into the façade, offering better wind protection and functionality than exposed corner balconies would do. This form also was considered to be less visually bulky than other options such as Option 4.

21 November 2018

The amended concept has been submitted as a mixed-use development of 19 storeys responding to previous recommendations of 18 April 2018.

The proposed form comprises one basement car-park level, ground floor retail and 18 levels of residential apartments.

Following consideration of four options

<p><i>the preferred option incorporates boundary setbacks based upon previous UDCG recommendations these amending setbacks in the previous approved DA. The resulting form combines a three storey podium with gently curved inset to the street frontage [acknowledging an existing street tree canopy] and a step down to 2 storeys at the western end with a 16-level tower form. The tower is articulated as apartments rising in columns to outer corners about a central framed core housing partially enclosed outdoor areas. The outdoor areas act as transitional entry loggias to the corner apartments. The core rises above the corner apartments as a skyline element. The Group supports the preferred option and acknowledges the response to previous recommendations.</i></p> <p>20 March 2019 <i>The Group supports the resolution of the previous preferred option. The tower form above the three-level podium is noted as being of 17 levels, the top two floors limited to two apartments with insets to the opposing corners reducing the visual impact of the upper floors, this compensating for exceeding the height limit of 60m [the tower being approx. 65.2m].</i></p>	
<p>Principle 3: Density</p> <p>UDCG comments:</p> <p>18 April 2018 <i>The site has a maximum FSR of 6:1. The concept was not sufficiently developed to determine an actual FSR at this stage.</i></p> <p>21 November 2018 - No change at this conceptual stage.</p> <p>20 March 2019 <i>The site has a maximum permissible FSR of 6:1. The proposed development</i></p>	<p>The proposal is within the maximum FSR for the site and meets this design principle.</p>

<p><i>has an FSR of 4.2:1</i></p>	
<p>Principle 4: Sustainability</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 - <i>No comment at this stage.</i></p> <p>21 November 2018 - <i>No change at this conceptual stage.</i></p> <p>20 March 2019 - <i>Aspects of sustainability are also focused on passive sustainable design. The design provides northern orientation to the bulk of apartments with 72% of living areas receiving at least 2hrs of sunlight between 9am and 3pm in mid-winter. Only 5% of apartments receive no direct sunlight in winter this being less than the maximum of 15% under SEPP65. 95% of apartments are identified as having cross ventilation. The provision of semi-enclosed balconies to the apartment tower is considered to contribute to the sustainability of these areas.</i></p>	<p>The proposal incorporates sustainability features in the scheme design, including the orientation of the site, solar access and natural cross ventilation. A BASIX Certificate has been submitted with the application. The requirements of the BASIX Certificate will be required to be undertaken as a recommended condition of consent. It is considered that the proposal meets this design principle.</p>
<p>Principle 5: Landscape</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 <i>No comment at this stage, other than to note strong support for the articulation of the street façade to accommodate the street tree, and for the dense podium planting as depicted.</i></p> <p>21 November 2018 <i>The potential for overshadowing of the podium level community court needs to be investigated.</i></p> <p>20 March 2019 <i>On the basis of exposure to the east, north and west, the common area should</i></p>	<p>The proposed landscaping treatment will provide for a high quality communal open space area and the proposal is considered to meet this design principle.</p>

<p><i>receive substantial sunshine and not be permanently overshadowed by future surrounding development.</i> <i>Landscaping generally is to be maintained by the body corporate.</i></p>	
<p>Principle 6: Amenity</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 <i>The proposed residential form provides for an attractive spatial layout of the residences, offering good potential for high levels of amenity.</i></p> <p>21 November 2018 <i>The Group supports the concept of utilising the semi-enclosed deck areas as an entry route to each apartment the semi-enclosed nature of the decks contributes to protection from high winds and enables greater flexibility of use.</i></p> <p>20 March 2019 <i>Screening between podium level decks should be extended for privacy. The flexibility of two-level dual-key podium apartments is supported. Separation distances are considered acceptable.</i></p>	<p>With respect to internal amenity, the proposed units are considered to be well proportioned and include significant private amenity areas. The amenity areas are inset into the building design to ensure they are protected from the rain and sun.</p> <p>The communal open space area proposed at podium level will provide for a good level of amenity for residents. The podium has been designed so that the usable areas are sheltered by raised garden beds and landscaping around the perimeter of the site. This will not only protect these areas from poor weather but will also minimise the impact of noise and overlooking from the podium areas to surrounding properties.</p> <p>The proposal is considered to meet this design principle.</p>
<p>Principle 7: Safety</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 - <i>No comment at this stage.</i></p> <p>21 November 2018 - <i>No change at this conceptual stage.</i></p> <p>20 March 2019 - <i>No issues were raised.</i></p>	<p>The applicant has demonstrated that the proposal will optimise security within and around the proposed development. It is considered that the proposal meets this design principle.</p>
<p>Principle 8: Housing Diversity and Social Interaction</p> <p><u>UDCG comments:</u></p>	<p>The proposed development provides a range of dwelling sizes, including three-bedroom units and a well-proportioned communal amenity area. The total mix is set out in Section 2.0 of this report.</p>

<p>18 April 2018 - No comment at this stage.</p> <p>21 November 2018 <i>Subject to clarification of possible overshadowing, the podium common area is supported.</i> <i>The semi-enclosed deck areas forming part of the access route to each apartment are considered to expand options for social interaction.</i></p> <p>20 March 2019 <i>The Group accepted the potential for sufficient sunshine to the podium common area.</i> <i>Other aspects of housing diversity and social interaction are considered of a high standard.</i></p>	<p>It is considered that the proposal meets this design principle.</p>
<p>Principle 9: Aesthetics</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 <i>The four options reflected a sophisticated response to the building form and the potential for producing an excellent design.</i></p> <p>21 November 2018 <i>The Group supports the demonstration of variations in external colour finishes, and the selected option.</i> <i>The Group recommended more depth in the articulation of the exposed western blank wall to the podium.</i> <i>The Group expressed a preference for grey natural concrete finish to the framed street frontage.</i> <i>The Group recommended that obscure balustrading adjustable screens and/or partial obscure upturns be employed rather than the glazed balustrades shown on the concept images.</i></p> <p>20 March 2019 <i>The articulation of the western partially blank wall seen above the podium is</i></p>	<p>The current proposal is considered to have resolved the points raised by the UDCG. The proposed development is considered to have a high quality visual appearance and meets this design principle.</p>

<p><i>supported.</i> <i>The exposed natural concrete finish to the framing of the podium is supported.</i> <i>The mix of balustrade treatments is supported with the reservation that partial screening or obscure glazing should be provided to podium balustrades where these are shown as clear glazed.</i></p>	
<p>Amendments Required to Achieve Design Quality</p> <p><u>UDCG comments:</u></p> <p>18 April 2018 <i>A tower that fully addresses the requirements for building separation as recommended in the Apartment Design Guide.</i></p> <p>21 November 2018 <i>The Group acknowledges the attention to previous recommendations provided in the amended concept.</i> <i>Incorporation of recommendations provided under the above headings will further design quality.</i></p> <p>20 March 2019 <i>The Group acknowledges the attention to and incorporation of previous recommendations in the development application.</i> <i>Incorporation of the limited recommendations provided under the above headings will further design quality.</i></p> <p>Summary Recommendation</p> <p>18 April 2018 <i>The Group supported a Design Excellence pathway, which would waive the requirement for a design competition as outlined by the proponent’s architects, subject to design development of the proposal in the light of the above feedback.</i></p>	<p>The proposed development is supported by the UDCG and is considered to have achieved design excellence.</p>

<p>21 November 2018 No change</p> <p>20 March 2019 <i>The Group considers that the Development Application has achieved Design Excellence, incorporating recommendations by the Group and following a commended pathway of design development.</i></p>	
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Apartment Design Guide (ADG) - Key "Rule of Thumb" Numerical Compliances

The ADG provides benchmarks and guidelines for the design and assessment of a residential apartment development. The following section contains an assessment of the development against key controls of the ADG.

1. Separation Distances

Minimum required separation distances from buildings to the site and rear boundaries are as follows:

- i) 4 storeys: 6m for habitable rooms and balconies; 3m for non-habitable rooms*
- ii) 5-8 storeys: 9m for habitable rooms and balconies; 4.5m for non-habitable rooms*
- iii) 9+ storeys: 12m for habitable rooms and balconies; 6m for non-habitable rooms*

Comment

The podium is built to the boundary on the east, north and west orientations, with the residential component predominantly facing the street, with the exception of two windows facing the west boundary on level 02. These windows are set back by 3.1m from the boundary. One of these windows is to a stairwell and the other is a secondary window to a living room. Given the relatively low usage pattern related to these windows and that there is minimal direct impact on site to the west, which has already been redeveloped, the proposed setback distance is considered acceptable.

The setback from the tower to the eastern and northern boundary is 9m on levels 3-7 and 12m from level 8 upwards. These distances comply with the design criteria, noting that the sites to the north and east could be amalgamated in the future and redeveloped to a similar height.

The setback from the western boundary is 9m on all upper levels. While it is acknowledged that the sites further to the west (corner of Tudor and Parry Streets) could be amalgamated for redevelopment, the strata subdivided residential development that is located immediately west and north-west of the subject site is unlikely to be redeveloped in the foreseeable future. A 9m setback to the western boundary is considered to be satisfactory.

2. Size of Units

Apartments are required to have the following minimum internal areas:

- i) studio apartment 35m²*
- ii) 1 bedroom apartment 50m²*
- iii) 2 bedroom apartment 70m²*
- iv) 3 bedroom apartment 95m²*

**Additional bathrooms increase the internal area by 5m².*

Comment

Minimum proposed apartment sizes are as follows:

- i) One-bedroom: 53m²*
- ii) Two-bedroom: 71m²*
- iii) Three-bedroom: 90m²*

The northern apartments to the tower vary from this criteria as they are two-bedroom apartments on levels 8 to 17, with an area of 71m², including two bathrooms (ie as opposed to the required 75m²). The variation is considered to be acceptable as the proposed configuration of the apartments can comfortably fit a second bathroom and the added amenity of a second bathroom is considered to be highly beneficial. All other units in the proposed development comply with the minimum apartment size requirements.

3. Unit Configuration

Provide primary balconies for all apartments with a minimum depth of 2 metres for 1-2 bedroom and 2.4 metres for 3 bedrooms.

In mixed use buildings: 3.3 metre minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use.

Measured from finished floor level to finished ceiling level, minimum ceiling heights are 2.7m for habitable rooms.

The back of a kitchen should be no more than 8 metres from a window.

The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.

Every habitable room must have windows in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.

Comment

All balconies comply with the minimum depth of balcony with the exception of apartment 1.02 which has two angled balconies, each with depths that vary between 1m and 2m. This angling of the balconies provides articulation to the facade which is shaped around the existing street tree. Due to the benefit to the streetscape, retention of the street tree and that the proportions of the two balconies still achieve reasonable usability, the proposed arrangement is considered acceptable in this instance.

The ceiling heights for all apartments comply with the 2.7m minimum height.

The ground floor provides a floor to floor height of 4m, meeting the required ceiling height of 3.3m.

The first floor provides a floor to floor height of 3.1m, however, due to the shallow floor plate which provides appropriate levels of daylight, the lower ceiling height is considered appropriate for its intended use as dual-key apartments.

The proposed kitchens in all units are no more than 8 metres from a window.

The proposed development complies with both the minimum width and minimum glazed area requirements as demonstrated on the submitted plans.

4. Solar Access

Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.

Comment

The proposal fully complies with the solar access requirements.

5. Storage

In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

- i) Studio: 4m³*
- ii) 1 Bedroom: 6m³*
- iii) 2 Bedroom: 8m³*
- iv) 3 Bedroom: 10m³.*

At least 50% of the required storage is to be located within the apartment.

Comment

At least 50% of the required storage has been provided for all apartments with the exception of the two-bedroom apartments on the tower to the north, which have 0.3m³ less than the minimum. Given that this is a minor deficiency and that the remainder will be provided in the basement, this is considered acceptable.

The remaining storage is provided in the basement area.

6. Natural Ventilation

At least 60% of apartments are naturally cross ventilated.

Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.

Comment

The proposed development complies with this control as demonstrated in the included drawings

7. Private Open Space

All apartments are required to have primary balconies as follows:

- i) Studio: 4m²*
- ii) 1 Bedroom: 8m²*
- iii) 2m minimum depth*
- iv) 2 Bedroom: 10m²*
- v) 2m minimum depth*
- vi) 3 Bedroom: 12m²*
- vii) 2.4m minimum depth*

The minimum balcony depth to be counted as contributing to the balcony area is 1m. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony.

It must have a minimum area of 15m² and a minimum depth of 3m.

Comment

Minimum area provided:

- Dual-Key apartments: 8m²
- 1) 1 bedroom: 12m²
 - 2) 2 bedroom: 14m²
 - 3) 3 bedroom: 17m²

Minimum depth provided:

- Dual-Key apartments : 1m
- 1) 1 bedroom: 2.7m
 - 2) 2 bedroom: 2.7m
 - 3) 3 bedroom: 2.7m

All balconies comply with the minimum depth of balcony with the exception of apartment 1.02 which has two angled balconies, each with depths that vary between 1m and 2m, while individually achieving the minimum required area. The angling of the balconies provides articulation to the façade, which is shaped around the existing

street tree. Due to the benefit to the streetscape, retention of the street tree and that the proportions of the two balconies still achieve reasonable usability, the proposed arrangement is considered acceptable in this instance.

8. Communal and Public Open Space

*Communal open space has a minimum area equal to 25% of the site
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)*

Comment

The proposal complies with the minimum communal space as demonstrated on the submitted drawings.

9. Deep Soil Zones

Deep soil zones are to meet the following minimum requirements:

Min dimension: 6m

Percentage of site are: 7%

Comment

The nature of the proposed development on this City Centre site precludes the establishment of a ground-level deep soil planting zone. Notwithstanding, the podium includes an area equal to 26% of the site of mass planting, of 1m in depth, which is considered appropriate in the circumstances.

10. Common Circulation Spaces

The maximum number of apartments off a circulation core on a single level is eight.

Comment

The proposed development complies with this control.

SEPP 65 Concluding Comment

The proposal is considered to be acceptable having regard to SEPP65, taking into consideration the design criteria in the Apartment Design Guide and comments received from the UDCG in respect of the design principles.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

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

Clause 2.1 - Land Use Zones

The subject property is included within the B4 Mixed Use Zone under the provisions of NLEP 2012. Within the B4 mixed use zone, commercial premises and residential flat buildings are permissible with consent. The proposal incorporates a residential flat building and retail units, which are a type of commercial premises. Accordingly, all proposed uses are permissible with consent.

The objectives of the B4 Mixed Use zone are:

- i) To provide a mixture of compatible land uses.*
- ii) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- iii) To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.*

The proposed development comprises a mixed use scheme incorporating retail and residential units in close proximity to public transport. The proposed uses complement and enhance the viability of the commercial centre by increasing the population of the area. The proposed development is consistent with the objectives of the land use zone.

Clause 2.7 - Demolition Requires Development Consent

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

Clause 4.3 - Height of Buildings

Under NLEP 2012 the site has a maximum height of 60m. The proposed development will result in a total height of 65.2m, equating to an exceedance of 5.2m or 8.7% above the prescribed maximum height for the subject land.

The applicant has submitted a clause 4.6 variation request to this standard. Refer to discussion under Clause 4.6 Exceptions to Development Standards below.

Clause 4.4 - Floor Space Ratio

Under NLEP 2012 the site has a maximum 6:1 floor space ratio. The FSR of the proposed development is 4.4:1 and complies with this requirement.

Clause 4.6 - Exceptions to development standards

Clause 4.6 of NLEP 2012 enables consent to be granted to a development even though the development would contravene a development standard. In assessing the proposal against the provisions of clause 4.6, it is noted that:

1. Clause 4.3 (Height of Buildings) is not excluded from the operation of this clause; and
2. The applicant has prepared a written request (as per Clause 4.6(3)), requesting that CN vary the development standard and demonstrating that:
 - a) *Compliance with the development standards is unreasonable or unnecessary in the circumstances of the case, and*
 - b) *There are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant's written submission contends that enforcing compliance with the height of buildings development standard (ie Clause 4.3) is unreasonable and unnecessary in the circumstances. An extract of the applicant's request to vary the Development Standard is provided below.

What are the objectives of the development standard?

The objectives of Clause 4.3 – Height of Buildings are as follows:

- a) *to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,*
- b) *to allow reasonable daylight access to all developments and the public domain.*

What is the proposed numeric value of the development standards in the development application?

The numeric value of the proposed development and percentage variation are detailed in the following table:

Height

<i>LEP Clause</i>	<i>Control</i>	<i>Proposal</i>	<i>Variation</i>
<i>Clause 4.3 – Building Height</i>	<i>60m</i>	<i>65.2m</i>	<i>5.2m (8.7%)</i>

Overall, it is submitted that the development is consistent with the objectives of Clause 4.3 for the following reasons:

- a) *The height of the proposed development, which substantially complies with the building height limit, is considered entirely appropriate in this City Centre location.*
- b) *the site is in a transitional location between the highest permissible building height limit within the City Centre to the north-east, and lower building height limits to the north-west and west.*

- c) *The proposal responds to this transition in heights through its highly articulated roofline. Importantly, the non-complaint building elements do not significantly alter the built form of the proposed building, nor do they result in any significant additional gross floor area / land use intensity.*
- d) *is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the maximum height of buildings standard.*
- e) *the redevelopment of the site will facilitate a good mix of additional housing opportunities including highly flexible dual key studio apartments, as well as retail floorspace, to support the viability of the Newcastle City Centre.*
- f) *the proposal aligns with Council's strategic vision to support the evolving character of the area into a high-density mixed-use precinct at the western 'gateway' to the City Centre.*

Are there Sufficient Environmental Planning Grounds?

This assessment demonstrates that the resultant environmental impacts of the proposal are considered to be satisfactory. If made to strictly comply with Clause 4.3, there would be no additional benefit to the streetscape, neighbouring properties and the local area. The granting of development consent will enable a high quality, architecturally designed mixed use commercial and residential building to be constructed in Newcastle. The objectives of Clause 4.3 have been met with the proposed development.

Officer's comment

An assessment of the request has been undertaken and it is considered that:

- a) It adequately addresses the matters required to be demonstrated by clause 4.6(3) of NLEP 2012; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the B4 Mixed Use zone in which the development is proposed to be carried out; and
- c) The Secretary's (ie of the Department of Planning, Industry and Environment) concurrence to the exception to the height of buildings development standard, as required by clause 4.6(4)(b) of NLEP 2012, is assumed, as per Department of Planning Circular PS18-003 of 21 February 2018; and
- d) The applicant has demonstrated that the standard is unreasonable and unnecessary in this instance and that the proposed height and scale of

the proposed development is consistent with the character of surrounding developments in the area and is in accordance with the relevant zone objectives in the broader area. The proposed variations would not result in any significant impacts and therefore the proposal has planning merit.

The proposed exceptions to the height of buildings development standard of NLEP 2012 is an acceptable planning outcome and, in this instance, requiring strict compliance would be unreasonable and unnecessary. The proposed variations to the development standard do not cause any undue adverse environmental impacts, including impacts on neighbouring properties, in terms of overshadowing and visual privacy.

The proposed development reflects the future character of the area in respect of building height and form and is consistent with relevant controls (notably Section 6.01 Newcastle City Centre of the NDCP 2012).

The request for the height of the proposed building to exceed the 60m height of buildings development standard is supported.

Clause 5.10 - Heritage Conservation

The site is within the Newcastle City Centre Heritage Conservation Area (HCA). Accordingly, a Statement of Heritage Impact (SOHI) was submitted with the development application. The SOHI provides a detailed assessment of the potential impact of the proposal on the character of the HCA.

The proposal will result in the removal of a commercial building on the site that is of low design quality and will provide for a proposal of high design quality considerable of the heritage area. This will enhance the character of the locality, which comprises of a range of generally low design quality buildings and structures.

It has been demonstrated that the proposed development will not unduly impact on the character and heritage significance of the HCA. The proposal is considered acceptable.

Clause 6.1 - Acid Sulfate Soils

The site is potentially affected by Class 4 acid sulfate soils and the proposed development is considered satisfactory in this regard. Relevant conditions have been included in the recommended Draft Schedule of Conditions (refer to **Attachment B**) to ensure acid sulfate soils are appropriately managed, if found on the site.

Clause 6.2 - Earthworks

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

Part 7 - Additional local provisions - Newcastle City Centre

The site is located within the Newcastle City Centre. There are a number of requirements and objectives for development within the City Centre, which includes promoting the economic revitalisation of the City Centre, facilitating design excellence and protecting the natural and cultural heritage of Newcastle. The proposal is considered to be consistent with the objectives of Part 7 of NLEP 2012.

Clause 7.4 - Building Separation

The subject site is not located in proximity to any building above 45m in height. Accordingly, this clause does not apply to the proposed development.

Clause 7.5 - Design excellence

In accordance with subclause 7.5(5), the Government Architect NSW has certified in writing that a design competition is not required in this case. This waiver was granted on the basis that it has been demonstrated that design excellence will be achieved and that the architect has a reputation for delivering buildings of the highest quality.

The recommendation of the Government Architect NSW was for a process of design integrity to be established, specifically through ongoing review by the UDCG, being a process that has been implemented.

The UDCG has advised that it considers that design excellence has been achieved, as required by this clause.

It is noted that the clause also provides that the consent authority may grant consent to the erection of a building that has a height of not more than 10% greater than that allowed by Clause 4.3, if the design of the building has been reviewed by a design review panel. It is considered that, notwithstanding the previously discussed assessment of the variation to the height of buildings development standard of Clause 4.3, the proposed 8.7% height variation also fits within the scope of the height bonus provided by Clause 7.5.

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

There is no exhibited draft environmental planning instrument that is relevant to the assessment of the application.

5.3 Any development control plan

Newcastle Development Control Plan 2012 (NDCP 2012)

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

Residential Development - Section 3.03

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

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

Principal controls (3.03.01)

A. *Frontage widths*

The NDCP 2012 requires a site frontage width of 15m for a residential flat building in the B4 zone. The proposal exceeds this requirement, with the site having a frontage to Denison Street of 40.23m.

B. *Front setbacks*

The proposed setbacks are assessed under Part 6.00 Locality Specific Provisions as set out below.

C. *Side and rear setbacks*

The proposed setbacks are assessed under Part 6.00 Locality Specific Provisions as set out below.

D. *Landscaped Area*

The NDCP 2012 requires that developments in the B4 zone incorporate a minimum of 20% landscaped areas, including a 10% deep soil zone. Landscaped areas will cover 30% of the site, in excess of NDCP 2012 requirements. In addition, 26% of the podium landscaped areas comprise 1m deep planting zones which will allow for the planting of trees as proposed. The proposed landscaping is considered to be acceptable.

Siting the development (3.03.02)

A. *Local character and context*

A detailed site analysis was submitted with the development application. The proposed development reflects the desired future character of the area and will not unreasonably impact on the amenity and privacy of adjoining dwellings. The proposed development is considered to be acceptable.

B. *Public domain Interface*

Private open space is located behind the front building line and windows and balconies overlook the street. Street access and the building entries are clearly defined. The proposed development is in accordance with this control and is acceptable.

C. *Pedestrian and vehicle access*

Parking spaces, the driveway and circulation spaces can comply with AS 2890.1. Appropriate lighting will be provided within the carpark areas.

The basement carpark will not protrude above ground level and the above-ground car parking areas will not be visible from the street or any public areas. The carpark entry has a height of 2.7m. The proposed development is in accordance with this control and is acceptable.

D. Orientation and siting

The apartments have been orientated and designed to optimise solar access to living areas and areas of private open space. The proposal achieves the ADG minimum solar access control. Further, the proposed development will not result in an unacceptable level of overshadowing to surrounding properties. The proposed development is considered to accord with this control.

E. Building Separation

As this provision applies to buildings within the site and a single tower element is proposed, the proposal satisfies this Section of the NDCP 2012.

Amenity (3.03.03)

A. Solar and daylight access

The proposal has addressed the solar access requirement and accords with the ADG in respect of solar access to the proposed units.

B. Natural ventilation

The proposal complies with the ADG natural ventilation requirements and is considered acceptable.

C. Ceiling heights

In summary, the proposal complies, with the exception of level 1 which provides a floor to ceiling height of 3.1m (noting the 3.3m requirement for ground floor and first floors in mixed used areas). Due to the shallow floor plates of the dual key studio apartments at level 1, which provide for appropriate levels of daylight and natural ventilation, the lower ceiling heights are considered appropriate for the intended use of these apartments.

D. Dwelling size and layout

The proposal complies with the ADG, with the exception of minor variations in relation to minimum living room widths and bedroom and apartment sizes to some apartments. Given the minor non-compliances and the overall quality of the proposed accommodation, the dwelling sizes and layouts are considered acceptable.

E. Private Open Space

The proposal complies, with the exception of Unit 1.02, which has two angled balconies with widths varying between 1m and 2m. Given the minor nature of the non-compliance and the overall size and amenity of

the proposed private open space areas, the proposed development is considered acceptable.

F. Storage

The proposed development complies with the ADG as required, with the exception of some of the two-bedroom apartments, which provide 0.3m³ less than the required minimum. Given that this is a minor deficiency and that the remainder of the storage for these apartments will be provided in the basement, this variation is considered acceptable.

G. Car and bicycle parking

Car and bicycle parking are discussed in Section 7.03 below.

H. Visual privacy

The proposed development complies with the ADG in respect of visual privacy. Accordingly the proposed development is considered to be acceptable.

I. Acoustic privacy

The proposed development has been assessed by CN's Environmental Protection Officer. The officer's assessment is as follows:

'In summary, the ESU considers the proposal is compliant with appropriate internal noise criteria, provided the design measures outlined in Section 7 and the updated Table 10 of the NIA are implemented (Reverb Acoustics, December 2018).

Ideally, all habitable rooms should be naturally ventilated in apartment complexes. Adequate ventilation will need to be provided to the residential units in accordance with the requirements of the National Construction Code of Australia, while maintaining the required level of acoustic attenuation as detailed in Section 7 of the Noise Impact Assessment. This is addressed in a condition of consent.

Noise will also be generated from construction activities and demolition associated with the development.'

The proposed development is considered acceptable in respect of noise impacts subject to the imposition of relevant conditions of consent.

J. Noise and pollution

The proposed development has been assessed by CN's Environmental Protection Officer and is considered to be acceptable subject to the imposition of conditions of consent. Appropriate conditions to address these issues has been included in the Draft Schedule of Conditions (refer to **Attachment B**).

Configuration (3.03.04)

A. Universal design

A total of 15 of the 74 proposed apartments have been designed to promote flexibility and to meet the changing needs of residents over time by incorporating Livable Housing Guideline's silver level universal design features, representing 20% of the total number of apartments. In addition, all apartments are accessible from the street and carparking areas, by a continuous step free path of travel, and contain open-plan living areas to facilitate comfortable and unimpeded movement between spaces. The proposed development is considered to accord with this control.

B. Communal area and open space

Approximately 13% of the site area is dedicated communal open space. The communal open space area is north-facing and receives excellent solar access. The communal open space is directly overlooked by the common room and the terraces of Units 3.01 and 3.02 (which are located within 3m). There would be adequate daylight and natural ventilation to all common circulation spaces above ground and appropriate lighting will be provided to each space. The proposed development accords with this control.

C. Architectural design and roof form

The roof design integrates well with the overall building design. Plant and other systems would be appropriately screened via features integrated into the roof design. The proposed development accords with this control.

D. Visual appearance and articulation

The proposed building is significantly articulated. The main building entry from Denison Street is clearly defined via framed elements. An attractive variety of materials and colours are proposed in accordance with this control.

Environment (3.03.05)

A. Energy efficiency

Given the density of the proposed development, dedicated outdoor drying areas are not possible, however, each proposed unit will have access to private balcony or terrace.

B. Water management and conservation

Each unit will be fitted with appropriate water meters, while stormwater treatment is discussed below.

C. Waste management

Waste management facilities are fully integrated into the basement of the proposed development. Waste collection will occur on site in accordance with this control.

Commercial Uses - Section 3.10

Street activation (3.10.05)

The provision of ground level retail space will activate this part of Denison Street by promoting increased activity within the locality. Separate pedestrian accesses are proposed to the retail tenancies from the street. With the exception of the fire booster at the south-western corner of the building, glazing is proposed for the full length of the retail façades to provide a visual connection into the uses at ground floor level. The proposed development complies with this control.

Utilities and services (3.10.09)

Mail boxes are provided in the building's lobby at ground floor level, adjacent to the retail tenancies. The shared waste storage area is concealed within an enclosed room within the ground level car park near the access driveway. The proposed development complies with this control.

Flood Management - Section 4.01

Council's Senior Development Officer (Engineering) has provided an assessment in relation to the proposal, as follows:

'A flood certificate was issued by Council for this site in January 2016 which provided a flood planning level (minimum occupiable floor level) of 5.95m AHD. The proposed ground floor retail areas, the lift lobby area and the crest of the carpark entry ramp are at this level which satisfies the minimum flood level requirement for this site.'

Accordingly, the proposal is acceptable in relation to flooding.

Mine Subsidence - Section 4.03

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

Safety and Security - Section 4.04

A Crime Risk Assessment was provided with the development application, demonstrating that the proposal incorporates appropriate crime prevention features in accordance with this control.

Soil Management - Section 5.01

Appropriate sediment control measures have been included in the scheme design in accordance with this control.

Due to the large scale of the development, earthworks are required to position car parking and other services below ground. The proposed earthworks will be informed by the geotechnical investigation prepared for the site. Minimal filling is proposed

and no excavation is proposed external to the building footprint. Excavation to a maximum depth of 3.7m is proposed within the building footprint.

The detail of the proposed building will be further considered at the Construction Certificate phase. The proposed development complies with this control.

Land Contamination - Section 5.02

A Detailed Site Investigation (DSI) and Preliminary Acid Sulphate Assessment report has been prepared for the site. In accordance with the recommendations of the DSI report, a Remediation Action Plan (RAP) has been prepared for the site. CN's Environmental Health Officer has assessed the submitted RAP and their advice is included below:

'The ESU considers that providing works are undertaken in accordance with the RAP prepared by EIAustralia dated December 2018, the site can be managed, remediated and validated appropriately so that it does not pose a risk to human health or the environment. This is dependent on further site characterisation, delineation and groundwater testing of the site undertaken prior to construction (as outlined in the RAP).'

The proposed development is acceptable with respect to contamination.

Aboriginal Heritage - Section 5.04

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

Heritage Items - Section 5.05

The broader locality contains a number of items of 'local' and 'State' heritage significance, however, no heritage items are located adjacent to or in the vicinity of the site. The proposed development will not unduly impact on the surrounding heritage items.

Archaeological Management - Section 5.06

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

The site does not contain any recorded Aboriginal archaeological sites. However, the project area has a high degree of potential to contain Aboriginal archaeological material within relatively undisturbed sub-surface profiles associated with the fore-dune system. It is recommended that further investigations and consultation be undertaken prior to construction. A condition relating to an archaeological study to be reviewed by the Local Aboriginal Land Council is included in the Draft Schedule of Conditions (refer to **Attachment B**).

Heritage Conservation Areas - Section 5.07

The subject site is within the Newcastle City Centre Heritage Conservation Area. A Heritage Impact Assessment (HIA) has been provided with the development application. The HIA demonstrates that the proposed development has been designed to minimise the impact to the heritage conservation area through the choice of materials, scheme design and proposed building form. While the proposed building is significantly taller than surrounding properties, this reflects the anticipated future character of the area. The proposed development is a good design that will contribute to the emerging character in Newcastle West.

The proposed development complies with this control and is acceptable.

Newcastle City Centre - Section 6.01

Character Areas (6.01.02)

The subject site is within the 'West End' character area. The proposal has been designed with regard to the NDCP 2012's principles for this area. In particular, the proposal would provide an inviting building entry and active frontages that allow visual permeability from the street to within the building.

Street wall heights (6.01.03 A1)

The proposed building incorporates a street wall height of 10.2m with the proposed tower levels being setback approximately 4m above the street wall height.

The proposed street wall height is considered to be appropriate on this site due to the building's relationship with surrounding development and the scale of the proposed podium level being consistent with the surrounding buildings.

Building setbacks (6.01.03 A2)

The proposal generally meets or exceeds the NDCP 2012 minimum setback requirements, with the exception of the western boundary setback between levels 14-19. It is considered unlikely that the adjoining site to the west would be redeveloped in the foreseeable future, due to its size, limited opportunities for future amalgamation and the existing development on the site. Accordingly, the reduced setback at the proposed building's upper levels (western boundary) is considered acceptable in the circumstances.

Building separation (6.01.03 A3)

The proposal comprises a single tower element only.

Building depth and bulk (6.01.03 A4)

The proposal accords with the maximum Gross Floor Area and maximum building length controls. The proposal exceeds the maximum building depth control, however, the scale of the proposal is considered acceptable on the site and the proposal will not impact on the amenity of neighbouring properties.

Building exteriors (6.01.03 A5)

The proposed materials are considered to be of a high-quality and are considered to complement the character of the surrounding area. The façade is also suitably articulated with no large areas of blank wall proposed.

Heritage buildings (6.01.03 A6)

There are no heritage buildings located on site

Awnings (6.01.03 A7)

The site is not within an area required to have an awning. However, the proposed development includes an awning over part of the street frontage.

Design of car parking structures (6.01.03 A8)

The design of the proposed basement and above ground-floor car parking area is considered to comply with this control.

Landscaping (6.01.03 A9)

Significant areas of landscaping and communal open space are proposed at podium level.

Access network (6.01.03 B1)

The NDCP2012 map does not identify any existing or desired new connections through the site. Nevertheless, the proposal includes active uses at ground level, promoting access and public use of the public footpath fronting the site.

Views and vistas (6.01.03 B2)

The subject site is not associated with any identified views or vistas.

Active Street Frontages (6.01.03 B3)

The NDCP 2012 maps do not identify the site as requiring an active frontage to the streets, nor is it within an identified '*activity node*'. However, it is considered that the proposed development includes an active street frontage.

Addressing the street (6.01.03 B4)

The proposal contributes to the safety, amenity and quality of the public domain through the provision of ground level retail space. Separate of pedestrian accesses are proposed to the retail tenancies from the street, as well as to the residential lobby. With the exception of the fire booster at the south-western corner of the building, glazing is proposed for the full length of the retail façades to enhance activation.

Public artwork (6.01.03 B5)

Public artwork is required to be incorporated into the proposed development. The requirement to provide public art is included as a condition of consent.

Sun access to public spaces (6.01.03 B6)

The proposal will not create significant overshadowing impacts on public spaces.

Infrastructure (6.01.03 B7)

The proposed stormwater system has been designed to comply with Section 7.06 of the NDCP2012. The proposal will otherwise connect to the existing water and sewer network servicing the site.

Site Amalgamation (6.01.03 B8)

The site is not located on former rail corridor land.

Landscape Open Space & Visual Amenity - Section 7.02

General controls (7.02.02)

The proposal involves a high level of landscaping for a multi-storey development within a CBD location. Approximately 30% of the site area is proposed for landscape planting with 26% proposed for 1m deep mass planting. Retention of the London Plane street tree and the proposed landscaping at podium level would help to soften the built form, maximise the amenity of the public domain, and provide visual integration with the street.

Green walls and roof space (7.02.06)

The planting proposed on structures is considered to be of an appropriate soil and species type.

Traffic, Parking & Access - Section 7.03

Traffic studies & plans (7.03.01)

A Traffic and Parking Assessment was provided with the development application and a condition of consent is recommended to require a construction traffic management plan. The proposal results in a shortfall of 5 car parking spaces, compared with the relevant parking rate identified by the NDCP2012. CN's Senior Development Officer (Traffic) assessed the proposed parking shortfall and considered it to be acceptable given the availability of on street car parking spaces and the provision of an additional 3 to 4 on-street angled car parking spaces as a result of the changed configuration resulting from the proposed development.

Variations to parking rates (7.03.02 B)

The proposal results in a shortfall of car parking spaces. The proposed shortfall is justified on the basis that the proposed development will result in the provision of 3 to 4 additional car parking spaces on the street. On this basis, CN's Senior Development Officer (traffic) has confirmed the shortfall is considered to be acceptable.

Bike parking (7.03.02 C)

The proposed development exceeds the bicycle parking requirement.

Motorbike parking (7.03.02 D)

The proposal exceeds the motorbike parking requirement.

Parking for people with a disability (7.03.02 E)

Two spaces are provided in the basement car park area in accordance with AS2890 and AS1428.

Public transport (7.03.03 A)

The site is well serviced by public transport, being in close proximity to a number of bus routes and the Newcastle Transport Interchange.

Green Travel Plan (7.03.03 B)

A Green Travel Plan has been provided as part of the development application.

End of trip facilities (7.03.03 C)

Bicycle storage will be provided at ground level for residential visitors and commercial staff/patrons to encourage trips by cycling.

Design & layout of parking & access (7.03.04)

The proposed car park layout and vehicular access arrangements generally comply with the requirements of the NDCP2012 as well as AS2890. In particular, the internal car park will enable vehicles to enter and exit the site in a forward direction. In addition, the proposed vehicular access point is suitably located, providing adequate sight lines.

Section 7.05 - Energy efficiency

Business development (7.05.01)

The proposed commercial units incorporate measures to maximise natural/passive climate control, including glazed frontages to allow for sunlight penetration. The proposal is considered to accord with this control.

Stormwater- Section 7.06 & Water Efficiency - Section 7.07

Council's Senior Development Officer (Engineering) has assessed the proposal and considers it to be acceptable subject to the imposition of recommended conditions of consent.

Waste Management - Section 7.08

A Waste Management Plan has been provided with the application. Waste from the proposed development will be collected within the basement of the proposed development by a privately-operated waste vehicle. The waste vehicle will enter the basement via the ramp on Denison Street and stop at a turntable located at the bottom of the entrance ramp. The truck will be rotated on the turntable and will back into a dedicated parking bay located within the basement. Once the waste is collected, the truck will be able to drive onto the turning circle and drive up the ramp before leaving the site in a forward direction. The on-site manager will organise and prepare the bins for pickup by the waste truck and ensure the bins are put back in place in the basement.

There will be minimal servicing required for the site, which would mostly be completed by vans or small commercial vehicles. These vehicles will be able to

access the site via the driveway from Denison Street and use the available commercial spaces and visitor spaces for servicing the site.

Based on the submitted information, the proposal is considered to be acceptable.

Public Participation - Section 8.0

The proposal was notified to neighbouring properties for 14 days in accordance with the provisions of the NDCP 2012. Public notice of the proposal was also provided by way of a newspaper advertisement.

No submissions on the proposal were received.

Development Contributions

Sections 7.11 and 7.12 of the Environmental Planning and Assessment Act 1979 enable CN to levy contributions for public amenities and services. The proposed development would attract a development contribution, as detailed in CN's Development Contributions Plan.

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

5.4 Planning agreements

No planning agreements are relevant to the proposal.

5.5 The regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. Compliance with AS2601 – Demolition of Structures is required to be included in conditions of consent.

No Coastal Management Plan applies to the site or the proposed development.

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

The proposed development will not have any undue adverse impact on the natural or built environment. The development is compatible with the existing character, bulk, scale and massing of development in the broader locality. It is considered that the proposal will not have any negative social or economic impacts.

5.7 The suitability of the site for the development

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

The site is suitable for the proposed development as it is located in the City Centre, which is well serviced by public transport and community facilities. It is considered that adequate services and waste facilities are available to the development.

At-grade access to the site will be available for pedestrians, from adjacent roads and from public transport. Having regard for the City Centre location and the availability of public transport services, it is considered that the proposed use is satisfactory in respect of its accessibility.

The constraints of the site have been considered in the proposed development, which include flooding, contamination, acid sulfate soils and heritage.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

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

The application was publicly notified and no submissions were received.

5.9 The public interest

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

The proposal is consistent with Council's urban consolidation objectives, making more efficient use of the established public infrastructure and services.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

The development is in the public interest and will allow for the orderly and economic development of the site.

6.0 CONCLUSION

The proposal is acceptable against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in **Attachment B** are included in any consent to be issued.

ATTACHMENTS

Item 10 Attachment A: Submitted Plans - Under Separate Cover - 20 Denison Street Newcastle West

Item 10 Attachment B: Draft Schedule of Conditions - 20 Denison Street Newcastle West

Item 10 Attachment C: Processing Chronology - 20 Denison Street Newcastle West

Item 10 Attachment A

Submitted Plans - Under Separate Cover - 20 Denison Street Newcastle West

Item 10 Attachment B

DRAFT SCHEDULE OF CONDITIONS



Application No:	DA2018/01498
Land:	Lot 45 DP 632876
Property Address:	20 Denison Street Newcastle West NSW 2302
Proposed Development:	Demolition of structures, erection of a 20-storey mixed use development

SCHEDULE 1

APPROVED DOCUMENTATION

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Location Plan	A001 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Contextual Analysis	A002 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Site Analysis	A003 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Site Plan	A004 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Demolition Plan	A010 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Basement Floor Plan	A100 Rev. B	Tonkin Zulaikha Greer Architects	05/04/19
Ground Floor Plan	A101 Rev. C	Tonkin Zulaikha Greer Architects	05/04/19
First Floor Plan	A102 Rev. C	Tonkin Zulaikha Greer Architects	05/04/19
Second Floor Plan	A103 Rev. C	Tonkin Zulaikha Greer Architects	05/04/19
Third Floor Plan	A104 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Typical Lower Floor (L4-7)	A105 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Typical Upper Floor (L8-17)	A106 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Level 18 Floor Plan	A107 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Level 19 Floor Plan	A108 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18

CITY OF NEWCASTLE

		Greer Architects	
Plant Level	A109 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Roof Plan	A110 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Elevations 01	A200 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Elevations 02	A201 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Sections	A300 Rev. A	Tonkin Zulaikha Greer Architects	14/12/18
Shadow Diagrams – June	A500 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Shadow Analysis – 5 Tudor Street	A501 – Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Solar Diagrams	A601 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Ventilation Diagrams	A602 Rev. A	Tonkin Zulaikha Greer Architects	13/12/18
Basement Stormwater Plan	15010 Sheet 01 Rev. D	Stonehenge	12/04/2019
Ground Floor Stormwater Plan	15010 Sheet 02 Rev. D	Stonehenge	12/04/2019
First Floor Stormwater Plan	15010 Sheet 03 Rev. D	Stonehenge	12/04/2019
Second Floor Stormwater Plan	15010 Sheet 04 Rev. D	Stonehenge	12/04/2019
Third Floor Stormwater Plan	15010 Sheet 05 Rev. D	Stonehenge	12/04/2019
Lower Floor Stormwater Plan (Level 4-7)	15010 Sheet 06 Rev. D	Stonehenge	12/04/2019
Upper Floor Stormwater Plan (Level 8-17)	15010 Sheet 07 Rev. D	Stonehenge	12/04/2019
Level 18 Stormwater Plan	15010 Sheet 08 Rev. D	Stonehenge	12/04/2019
Level 19 Stormwater Plan	15010 Sheet 09 Rev. D	Stonehenge	12/04/2019
Roof Stormwater Plan	15010 Sheet 10 Rev. D	Stonehenge	12/04/2019
OSD Tank Details	15010 Sheet 11 Rev. D	Stonehenge	12/04/2019
Pumpout Tank Details	15010 Sheet 12 Rev. D	Stonehenge	12/04/2019
Stormwater Details	15010 Sheet 13 Rev. D	Stonehenge	12/04/2019
Second Floor Landscape Plan	LPDA 19-83 Rev. B	Conzept Landscape Architects	06/12/2018
Third Floor Landscape Plan	LPDA 19-83 Rev. B	Conzept Landscape Architects	06/12/2018
Facades	LPDA 19-83	Conzept Landscape Architects	06/12/2018

Specifications & Details	LPDA 19-83 Rev. A	Conzept Landscape Architects	02/10/2018
Acoustic Report	18-2238-L2	Reverb Acoustics	12/02/2019
Noise Impact Assessment	18-2238-R1	Reverb Acoustics	December 2018
Traffic & Parking Assessment	n/a	Intersect Traffic	December 2018
BASIX Certificate	983573M	Building Sustainability Assessments	14/12/2018
Crime Risk Assessment	n/a	CHD Partners	September 2018
Preliminary Site Investigation	E23099. E01. Rev.01	Eiaustralia	12 December 2018
Remediation Action Plan	E23099.E06.Rev1	Eiaustralia	12 December 2018

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. A total monetary contribution of \$829,290.00 is to be paid to City of Newcastle, pursuant to Section 94A of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

a) This condition is imposed in accordance with the provisions of The City of Newcastle S94A Development Contributions Plan 2009 (updated version operational from 15 March 2011). A copy of the plan may be inspected at City of Newcastle's Customer Enquiry Centre, 8.30 am to 5.00 pm, excluding public holidays.

b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.

c) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx. release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact City of Newcastle's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

3. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
4. All stormwater runoff from the proposed development is to be managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, generally as indicated on the stormwater management concept plan prepared by Stonehenge consulting engineers (Job No. 15010, dated 12/04/2019).

Overflows from the proposed retention/reuse tank in the basement must be piped directly to the Denison Street kerb and gutter. Full details are to be included in documentation for a Construction Certificate application.

5. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a landscape plan and specification. The plan and specifications is to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

- a) cross sections through the site where appropriate
- b) proposed contours or spot levels
- c) botanical names
- d) quantities and container size of all proposed trees
- e) shrubs and ground cover
- f) details of proposed soil preparation
- g) mulching and staking
- h) treatment of external surfaces and retaining walls where proposed
- i) drainage, location of taps and
- j) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

6. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Details are to be included in documentation for a Construction Certificate application.
7. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 *Hunter Water Act 1991*) is to be included in documentation for a Construction Certificate application.
8. Adequate facilities are to be provided within an adequately screened location, for the storage of garbage. Full details are to be included in documentation for a Construction

Certificate application.

9. A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.
10. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
 - a) Constructed in accordance with City of Newcastle's A1300 – Driveway Crossings Standard Design Details.
 - b) The driveway crossing, within the road reserve, shall be a maximum of 6 metres wide.
 - c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
 - d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
 - e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by City of Newcastle. An application under Section 138 must be lodged and consent obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate.

11. A separate application must be lodged and consent obtained from City of Newcastle for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993 (NSW)*, before the issue of a Construction Certificate. The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate.
12. The Developer designing and constructing the following works in connection with the proposed development within the Denison Street public road reserve, adjacent to the site, at no cost to City of Newcastle and in accordance with City of Newcastle's guidelines and design specifications:
 - a) Road shoulder pavement
 - b) Kerb and gutter replacement
 - c) New driveway crossing
 - c) Full width foot paving
 - d) Associated drainage works
 - e) Linemarking and signposting for new parking spaces

Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to City of Newcastle for approval pursuant to Section 138 of the *Roads Act 1993*. The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate.

13. Prior to the issue of a Construction Certificate, the proponent is to prepare and submit to the Principal Certifying Authority and City of Newcastle an Environmental Management Plan (EMP) for construction/demolition works on the site, which is to be

kept on site and made available to authorised City of Newcastle officers upon request. The EMP is to include but not be limited to:

- a. A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - b. A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
 - c. A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions. This strategy should be cross-referenced with the water management strategy
 - d. A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.
 - e. A noise and vibration management program detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with Australian Standard AS 2436. 2010 (*Guide to Noise and Vibration control on Construction, Demolition and Maintenance Sites*).
 - f. A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
 - g. A community relations plan, which aims to inform residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.
14. A public art feature shall be designed for the site in consultation with Newcastle City Council and the Design Excellence Panel. The public artwork is to have a minimum value of 1% (\$276,430.00) of the capital cost of the development.

This feature shall provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature shall be designed to ensure long-term durability and be resistant to vandalism. Details shall be approved by Council prior to issue of the Construction Certificate, including details of the costs of such works. The applicant is advised to liaise with Council during the design stages.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

15. An assessment of the likelihood of the presence of any Aboriginal sites in relation to the proposed development area is to be undertaken to comply with the requirements of the *National Parks and Wildlife Act 1974* and the significance and requirements for the protection of any sites being incorporated into the documentation for a Construction Certificate application. Written confirmation that the National Parks and Wildlife Service's requirements have been met shall be submitted to City of Newcastle prior to engineering works commencing. Any submitted archaeological study shall be accompanied by a letter from the appropriate Local Aboriginal Land City of Newcastle stating that they are satisfied with the study process and that appropriate arrangements are in place for continued consultation during development of the site.

Note: It is illegal to knowingly damage, deface or destroy a 'relic' or Aboriginal Place without the Director's prior written consent.

16. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at City of Newcastle's Summerhill Waste Management Facility or other approved site.
17. The removal of any asbestos material during the demolition phase of the development is to be in accordance with the requirements of the SafeWork NSW.
18. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's '*Waste Classification Guidelines Part 1: Classifying Waste*'.
19. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
20. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to City of Newcastle officers or the Principal Certifying Authority on request.
21. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book')* published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
22. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
 - a) Restricting topsoil removal
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
 - c) Alter or cease construction work during periods of high wind and
 - d) Erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
23. During construction works, an assessment of acid sulfate soil potential is to be undertaken in the area of excavation. If acid sulfate soils are found to be present, soils are to be treated in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's '*Acid Sulfate Soil Manual*'.
24. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

 - a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or

- c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
25. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to City of Newcastle (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.
26. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
- a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
 - b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the SafeWork NSW
 - c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised City of Newcastle Officers upon request
 - d) Seven working days' notice in writing is to be given to City of Newcastle and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include City of Newcastle's contact telephone number (49742000) and the SafeWork NSW telephone number (49212900) and
 - e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
27. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
28. Any waste containers used in association with the proposed demolition are to be located on the site where possible.
- Note: Where this is not feasible, application must be made for City of Newcastle's approval to position the container on the adjacent public road in accordance with City of Newcastle's adopted Building Waste Container Policy.
29. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.
- Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.
30. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.

31. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

- a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste;
- b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets;
- c) Appropriate provision is to be made to prevent windblown rubbish leaving the site; and
- d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

32. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:

- a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

33. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

34. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on City of Newcastle reserves including the road reserve is not permitted.

35. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.

36. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:

- Monday to Friday, 7:00 am to 6:00 pm and
- Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public

holidays.

37. City of Newcastle's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by City of Newcastle for the duration of demolition and construction work.

Note: City of Newcastle's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at CN's Customer Enquiry Counter.

38. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the '*Blue Book*') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

39. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to City of Newcastle by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

40. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual '*Section 8.0 Protection Measures*'.

The tree protection fencing must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

41. All building work must be carried out in accordance with the provisions of the National Construction Code.

42. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.

43. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.

44. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to City of Newcastle requirements, in accordance with Element 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012.

45. The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings.

46. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

47. Appropriate acoustic treatment is to be implemented in accordance with the

recommendations set out in the report prepared by Reverb Acoustics, dated 17 December 2018. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and City of Newcastle prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

48. The proposed remediation work is to be carried out in accordance with the requirements set out in the submitted Remediation Action Plan (RAP) prepared by El Australia Pty Ltd dated 12 December 2018 and the Newcastle City City of Newcastle Development Control Plan. Details of the work undertaken is to be provided prior to the issue of the Occupation Certificate.
49. Following the implementation of the Remediation Action Plan (RAP), a validation report is to be prepared by a suitably qualified consultant and submitted to City of Newcastle and the Principal Certifying Authority. This report is to be written in accordance with the relevant Environment Protection Authority Guidelines.
50. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Noise Impact Assessment prepared by Reverb Acoustics (RA-R1) dated December 2018 and Letter response to "Request for Additional Information Denison Street Apartments" prepared by Reverb Acoustics dated 12 February 2019 (Ref 182238- L2). Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and City of Newcastle prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

51. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
52. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to City of Newcastle within fourteen days of receipt.
53. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
54. Any redundant existing vehicular crossing is to be removed at no cost to City of Newcastle. The road reserve and kerb being restored to, City of Newcastle's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.
55. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and to the City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

56. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

57. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be:

- a) Exterior of the building = 75mm and
- b) Group mailbox - street number = 150mm
- house number = 50mm

58. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.

59. A design verification statement from a qualified designer shall be submitted to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

Note: 'Qualified Designer' means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with Clauses 154A of the *Environmental Planning and Assessment Regulation 2000*.

60. The public art feature/s is to be installed on site prior to the issue of the Final Occupation Certificate.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

61. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should City of Newcastle consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

62. The hours of operation or trading of the premises are to be not more than from:

DAY	START	FINISH
-----	-------	--------

Monday	8:00 am	6.00 pm
Tuesday	8:00 am	6.00 pm
Wednesday	8:00 am	6.00 pm
Thursday	8:00 am	6.00 pm
Friday	8:00 am	6.00 pm
Saturday	9:00 am	3:00 pm
Sunday	No operation	No operation

unless a separate application to vary the hours of operation or trading has been submitted to and approved by City of Newcastle.

63. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997*.

Should City of Newcastle consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.

ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.
- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* is to be submitted to City of

Newcastle and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development' as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.
- Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the *Dividing Fences Act 1991*.
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and City of Newcastle is to be notified of the appointment; and
 - c) City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000*.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The proposed height of buildings development standard variation, made under Clause 4.6 of the Newcastle Local Environmental Plan 2012, has been considered and accepted.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of City of Newcastle's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.

Item 10 Attachment C

THE CITY OF NEWCASTLE
Report to Development Applications Committee Meeting on
20 August 2019



PROCESSING CHRONOLOGY

DA2018/01498 – 20 Denison Street Newcastle West

- 18/04/2018 - First visit to Urban Design Consultative Group meeting
 - 19/12/2018 - Application Received
 - 14/01/2019 - Public notification
 - 08/02/2019 - Request for additional information
 - 20/03/2019 - Second visit to Urban Design Consultative Group meeting
 - 20/03/2019 - Receipt of updated information
-

ITEM-11 **DAC 20/08/19 - DA2017/01382 - 1 MEREWETHER STREET, NEWCASTLE - ERECTION OF NINE STOREY MIXED USE DEVELOPMENT WITH 48 RESIDENTIAL UNITS, TWO COMMERCIAL TENANCIES, ASSOCIATED CARPARKING AND LANDSCAPING**

APPLICANT: **DOMA GROUP**
OWNER: **ONE MEREWETHER PTY LIMITED**
NOTE BY: **GOVERNANCE**
CONTACT: **DIRECTOR GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMENT**

P PART I

BACKGROUND

An application has been received seeking consent for the erection of a nine-storey mixed use development with 48 residential units, two commercial tenancies, two levels of associated carparking and landscaping.

The submitted application was assigned to Senior Development Officer, William Toose for assessment.

The application will be referred to the Development Applications Committee for determination, due to:

1. the construction value of the proposed development (ie \$18,760,500) being in excess of the staff delegation limit of \$10M.
2. the proposed variation to the height of buildings development standard of the Newcastle Local Environmental Plan 2012 (NLEP 2012) being more than a 10% variation (11% variation proposed).
3. the proposed variation to the floor space ratio development standard being more than a 10% variation (19.2% variation proposed).

A copy of the plans for the proposed development is appended at **Attachment A**.

The application was publicly notified in accordance with the City of Newcastle’s (CN) public participation policy and three submissions were received in response.



Subject Land: 1 Merewether Street Newcastle

The concerns raised by the objectors in respect of the proposed development are quite broad in nature. Details of the submissions received are summarised at **Section 3.0** of Part II of this report and the concerns raised are addressed as part of the Planning Assessment at **Section 5.0**.

The objectors declined the opportunity to make a presentation at a meeting of CN's Public Voice Committee.

Issues

- 1) The proposed development does not comply with the height of buildings provision of 30m under NLEP 2012. The parapet height of the proposed building is 29.6m and the maximum height is 33.2m (including lift over-run and rooftop communal area). This equates to a 11% variation to the height of buildings development standard.
- 2) The proposed development does not comply with the floor space ratio (FSR) provision of 2.5:1 under NLEP 2012. The proposed development has a FSR of 2.98:1, which equates to a 19.2% variation to the FSR development standard.

Conclusion

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

RECOMMENDATION

- A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of NLEP 2012, against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and is consistent with the objectives of Clause 4.3 and the objectives for development within the B4 Mixed Use zone in which the development is proposed to be carried out; and
- B. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of NLEP 2012, against the development standard at Clause 4.4 Floor Space Ratio, and considers the objection to be justified in the circumstances and is consistent with the objectives of Clause 4.4 and the objectives for development within the B4 Mixed Use zone in which the development is proposed to be carried out; and
- C. That DA2017/01382 for the erection of a nine-storey mixed use development with 48 residential units, two commercial tenancies, two levels of associated carparking and landscaping be approved and consent granted, subject to

compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B; and

- D. That those persons who made submissions be advised of Council's determination.

Political Donation / Gift Declaration

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

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

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

PART II

1.0 THE SUBJECT SITE

The site is known as 1 Merewether Street Newcastle and is located in the Civic precinct of the Newcastle City Centre, which is part of the Newcastle City Centre Heritage Conservation Area.

The site is located on a corner, with street frontages to Merewether Street to the west and Centenary Road to the north. The site comprises of five land titles, with a combined area of 1,571m² and legally described as:

- i) Lot 163 DP 32620;
- ii) Lot 164 DP 32620;
- iii) Lot 165 DP 32620;
- iv) Lot 166 DP 32620; and
- v) Lot 175 DP 151093.

The site has frontages of 40m to Merewether Street and 42m to Centenary Road, with another boundary that adjoins the former railway corridor of 47m in length.

Until recently, the site accommodated a single storey commercial building. That building was demolished under a separate development consent (ie via DA2017/00541), so the site is now vacant.

To the north, on the opposite side of Centenary Road, is a mixed use/residential development of eight storeys. Newcastle Museum is situated to the west of the site on the opposite side of Merewether Street. To the south of the site is the former railway corridor.

2.0 THE PROPOSAL

The development application seeks approval for a nine-storey mixed use building, comprising:

- i) Two commercial premises at ground level (one x 95m² and one x 360m²). The fit-out details provided are indicative only and will be subject to future development applications;
- ii) A carpark podium consisting of two levels of residential car parking (92 spaces), ground floor accessible parking and loading area (six spaces), providing a total of 98 car parking spaces;
- iii) 48 residential units (levels 3 – 8) including nine x one-bedroom units, 36 x two-bedroom units and three x three-bedroom units; and
- iv) Landscaping works.

The plans were amended in response to issues raised by CN's Urban Design Consultative Group. These amendments included the removal of two levels of basement public car parking and the provision of additional privacy screens and planters to balconies and terraces.

A copy of the amended plans is appended at **Attachment A**. The various steps in the processing of the application to date are outlined in the Processing Chronology appended at **Attachment C**.

3.0 PUBLIC NOTIFICATION

The application was publicly notified in accordance with the CN's public participation policy. Three submissions were received in response. The concerns raised by the objectors in respect of the proposed development are summarised as follows:

- i) Height of building – Non-compliance with the height of buildings development standard of NLEP 2012
- ii) Floor space ratio – Non-compliance with the floor space ratio development standard of the NLEP 2012

- iii) Noise
- iv) Overshadowing
- v) Impact on Civic character and public spaces
- vi) Views and view corridors
- vii) Visual impact
- viii) Design Excellence – Poor design outcome
- ix) Location of proposed driveway on Centenary Road – safety and restriction on accessibility
- x) Traffic safety – Potential conflict between heavy and light vehicles
- xi) Pedestrian safety – Increased traffic and pedestrian movement in and around the site
- xii) Traffic and parking - Traffic congestion in Centenary Road
- xiii) Potential use of units – Potential future use of residential units as short-term accommodation, student housing or boarding house accommodation
- xiv) Associated impacts of potential future use – potential noise impacts and social issues, including anti-social behaviour, management issues, waste and proximity to nightclub and public spaces
- xv) Potential future use of commercial tenancies – Potential for licensed premises with extended trading hours

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

4.0 INTEGRATED DEVELOPMENT

The proposal is not '*integrated development*' pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979*.

5.0 PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

5.1 Provisions of any environmental planning instrument

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

SEPP 55 requires that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

A Detailed Site Investigation and Remediation Action Plan (RAP) have been submitted in support of the application. A NSW EPA accredited site auditor has reviewed the RAP and the Auditor concludes that *“the site may be made suitable if the RAP is followed”*.

Council’s Senior Environmental Protection Officer considers the proposal to be acceptable and has recommended a number of conditions be imposed on a consent granted regarding the remediation of the site (refer to **Attachment B**).

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

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

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65)

This policy applies to the development of residential flat buildings and aims to improve the quality of residential flat development. SEPP 65 requires the consent authority to take into consideration the advice of a Design Review Panel and the design quality of the development when evaluated in accordance with the design quality principles and the Apartment Design Guide (ADG).

A SEPP 65 Statement has been submitted with the application, addressing the design quality principles. Council’s Urban Design Consultative Group (UDCG) has considered the proposal on three occasions, with their assessment of the proposal summarised in the following Table:

Design Quality Principles	Assessment
<p>Principle 1: Context and Neighbourhood Character</p> <p><u>UDCG comments:</u></p> <p><u>19 July 2017</u></p> <p><i>“The site is located on the south-east corner of the junction of Merewether Street and Centenary Road. To its west across Merewether Street is the Newcastle Museum, which is housed in a</i></p>	<p><u>Applicant’s submission:</u></p> <p><i>“The site of the proposed development is within the Civic Precinct of Newcastle City Centre. The Civic Precinct area has intentions for future renewal and revitalisation. The proposal is in keeping with the desired future character of the precinct.”</i></p> <p><u>Officer’s Comments:</u></p>

recent adaptive re-use of the restored heritage railway workshops complex. To the south of the site is the former railway corridor, which was recently rezoned. Noted.

Given the narrow geometry of the former railway land, it is unlikely that any significant development can be accommodated on this parcel – however its proposed use has yet to be determined.

To the north of the site across Centenary Road is a mixed-use development of 8 to 9 storeys. To the north-west a view corridor to the harbour has been established between Merewether Street and the Museum, which carries through to the eastern side of the heritage building currently used as The Forum gymnasium.

Merewether Street is one of the prime connections between the Civic area, including Wheeler Place, and the waterfront. It is proposed to augment this connection with another pedestrian link to the west near the location of the former Civic Rail Station. However, Merewether Street will remain a prime link between Civic and the harbor.”

Principle 2: Built Form and Scale

Applicant’s submission:

UDCG comments:

19 July 2017

“The Group noted that the relationship between the podium element, housing the levels of car parking, and the residential towers above, would be critical to a successful resolution to the forms. It will be critical for the podium to be firmly expressed to create a comfortable pedestrian scale, and the

“The proposed bulk and scale clearly defines the corner of Merewether Street and Centenary Road addressing a diagonal view axis towards the water front. It furthermore forms a clear street wall relating to the scale of Newcastle Museum and surrounding existing buildings in the overall articulation.

The built form of the building is determined by a podium that relates to the scale of the neighbouring context, and highly articulated towers above that.

tower forms to be visually unassertive.”

The apartment towers are shaped and oriented to maximise available district views, provide a high level of solar access and cross ventilation to both the apartments and the common corridor spaces.”

20 September 2017

“The importance of a firm expression of the podium base with the taller components being less assertive, is again emphasized. Resolution of the critical interface between podium and upper forms has been explored in more detail. A combination of more strongly expressed parapet forms on the podium, some further angulation of the upper forms where the intersections occur and more luxuriant landscape planting would resolve this.”

Officer's Comments:

Suitable design changes and refinements have been achieved.

11 December 2017

“The built form has been further developed, and the residential blade walls afforded visual precedence over intersecting podium parapet walls, which is considered to be a positive refinement. The elevations of the building indicate a luxuriant provision of vertical landscaping from planter boxes located within the car park, assist in visually softening the podium.”

Principle 3: Density

Applicant's submission:

UDCG comments:

“The proposed development achieves the objectives of this principle and is consistent with the desired built form and density of the locality. The proposed development will provide increased residential density in a desirable location, being situated within the Civic Precinct of Newcastle City Centre.

19 July 2017

“In the absence of a very strong public benefit arising, any proposal should comply with FSR controls. It is not known at this early stage, whether the proposal is likely to comply.”

It is noted that the two levels of basement public car parking originally proposed were deleted due to contamination issues and the FSR has significantly decreased from 3.75:1 to

20 September 2017

“The maximum FSR under the Newcastle

LEP controls is 2.5:1. It was advised that the proposed density is 3.75:1, due to the inclusion of two basement levels of parking. The Panel on balance is supportive of this additional parking, given the basement parking is proposed for use as public pay-parking, which is presently in short supply in the inner-city area."

2.98:1. Those two levels of public car parking were underground and therefore the external appearance, architectural treatment and the bulk and scale of the development from street view has not changed."

11 December 2017

Officer's comment:

"The current proposal is 390m² in excess of the permissible FSR. Given that the Group's earlier justification for exceeding of the FSR was based upon a public benefit consideration in recognition of the provision of public car parking and generous bicycle parking, neither of which is proposed in the DA, the extent of the exceedance is not insignificant, and cannot be supported."

A Clause 4.6 NLEP 2012 variation request from the applicant details how the proposal satisfies the objectives of NLEP 2012, notwithstanding the strict numerical non-compliance. Although the proposed FSR has not been supported by UDCG, it is considered satisfactory on planning grounds having regard to the overall building design (bulk, scale, articulation and setbacks) within the context of its location.

Principle 4: Sustainability

Applicant's submission:

UDCG comments:

"The proposed residential apartments have been designed for optimal energy efficiency, reducing reliance on artificial lighting and cooling using passive ventilation throughout the building design."

19 July 2017:

"No detail at this stage".

20 September 2017:

Officer's comment:

"The development has the opportunity for high-level performance in this area:

Suitable design changes and refinements have been achieved.

The podium-level parking could be naturally ventilated and naturally lit during daylight hours

The apartments have excellent cross-ventilation and solar access in excess of ADG recommendations

Extensive 'greening' of both podium and apartment rooftops could be

provided

There is opportunity for substantial contribution to energy needs by way of solar collectors.”

11 December 2017

“A number of the suggestions made previously have been taken up and are supported.”

Principle 5: Landscape

Applicant’s submission:

UDCG comments:

“The design incorporates appropriate planting on the building that complements the architecture and affords high level of amenity and comfort for future occupants.

19 July 2017:

“There are small planters associated with the access-ways to each residential floor. Consideration will need to be given to the podium, which should be attractively treated with landscaping and/or a green roof.”

The design also contributes positively to the visual appearance of the building from all aspects. Soft landscaping is furthermore included on the communal roof terrace.

20 September 2017:

“The landscape concept appears to be of excellent quality and begins to address the above issues.”

It is noted The Urban Design Consultative Group regarded the Landscape Design to be of excellent quality.

11 December 2017:

“Previous recommendations by the Group in respect to greening the majority of the area of the podium top have not been taken up, and much of the area is proposed to be taken up by private open spaces.”

The revised landscaping plan has also included more appropriate plantings, which will assist not only visually but also environmentally and with residential amenity.”

Officer’s comment:

The private terraces provided have added amenity while also maintaining generous areas of landscaping and planting.

Principle 6: Amenity

Applicant's submission:

UDCG comments:

19 July 2017:

"Some relationships between apartments were considered to be unsatisfactory in respect to privacy and separation distances between habitable rooms and balconies. In this instance both acoustic and visual privacy are the prime issues.

Due to the limited footprint of each block, building separation within the development from an aesthetic consideration is less of an issue. Further attention will need to be given to separation from future nearby development, and its likely built form. The site to the east is the prime concern in this respect."

20 September 2017:

"The above issues have now been addressed. The following further details require resolution:

Safety in relation to anybody climbing on planter boxes flanking the access corridors.

Screening from strong winds in relation to both the access corridors and the communal roof area."

11 December 2017:

"While most apartments will achieve acceptable amenity or better, the expansion of private open spaces at the podium brings a number of conflicts and separations that are less than separations in the Apartment Design Guide. This applies to apartments within

"The design proposes generous terraces on the podium that extends beyond the tower outline. These terraces provide additional amenity and exceed the minimum requirements for Private Open Space.

The design of these areas is consistent with intent and general principles of the ADG in regard to visual and acoustic privacy between terraces.

Overlooking from upper-level apartments is minimised through a combination of balcony depths and solid/screened balustrade treatments. This is further improved when seated."

Officer's comment:

Privacy, both visual and acoustic, between terraces and adjoining apartments are addressed through the provision of continuous privacy screens/dividing walls and planters.

the development and those potentially located on the neighbouring site.”

Principle 7: Safety

Applicant’s submission:

UDCG comments:

19 July 2017:

“No issues at this stage.”

20 September 2017:

“The recessed public area outside the residential lobby could pose safety issues after dark. It should be several metres less in depth.”

11 December 2017:

“The open lobby area has been provided with a security grille and gate near its entry. No further issues raised.”

“Overlooking of communal areas and public domain is achieved from within the building. The rooftop communal terrace is well designed and planned to encourage gathering and communal interaction. Active street frontage is achieved in the layout of commercial premises with direct access to Merewether Street and Centenary Road. An easily identifiable pedestrian building entry to the building and secured access is available to the apartment and car park levels. The building will have a strong and active street presence.”

Officer’s comment:

Suitable design changes and refinements have been achieved.

Principle 8: Housing Diversity and Social Interaction

Applicant’s submission:

UDCG comments:

19 July 2017:

“Consideration will need to be given to how residential communal space can be provided – both internal and external. For example, a small enclosed space, adjacent to a roof garden above the residential levels, would offer an attractive outlook for residents.”

“The apartment mix includes: 9 one-bedroom apartments, 36 two-bedroom apartments and 3 three-bedroom apartments. The design accommodates a mix of apartment types and sizes and incorporates internal facilities that appeal to a cross-section of the community. In the context of the location, the proposed facilities, affordability and accessibility, these apartments will appeal to a variety of housing needs”

Officer’s comment:

20 September 2017:

“It would be highly desirable to provide

Suitable design changes and refinements have been achieved.

an enclosed space fitted with basic kitchenette facilities, so that the communal area can be enjoyed at all times.”

11 December 2017:

“The revision of the common roof area is supported.”

Principle 9: Aesthetics

Applicant’s submission:

UDCG comments:

19 July 2017:

“The proposal has potential to be an interesting insertion into this heritage area. Treatment of the vehicle parking floors and their relationship to the towers will be an issue that needs to be carefully addressed. This proposed three-level podium is supported and the utilisation of extensive areas of face brick was considered to be a unifying factor in sympathy with this heritage area and was strongly supported.”

20 September 2017:

“The architectural form and character of the development are supported, subject to further detail design and submission of sample finishes.”

11 December 2017:

The acceptable presentation of the podium of the development in particular is heavily reliant upon a successful landscaping strategy. The capacity for plantings in very limited-volume pots and narrow planters to achieve useful densities, heights and coverage.”

“The design language of the proposal is based on the strong articulation of the upper level towers above a clearly defined podium.

The directional character of the apartment towers with articulated balconies on key faces and more solid sides adds variation to the overall composition and allows the building to be read differently from multiple angles.

Low maintenance and enduring materials such as brick and concrete are the predominant elements in the facade. This is accentuated by dark coloured aluminium framed glazing and vertical blade balustrades.

The proposed Landscape Concept Plan is considered to be sufficient and has been prepared by an accredited landscape architecture firm.”

Officer’s comment:

Suitable design changes and refinements have been achieved. Relevant conditions of consent have been recommended requiring the final planting specifications and details (i.e. pot sizes, drainage maintenance) be prepared by a qualified landscape

designer and be included as part of a Construction Certificate.

Amendments Required to Achieve Design Quality

Officer's Comments:

UDCG comments:

19 July 2017:

"The Group noted that the project was considered to be positive and potentially one that will produce an interesting, energetic building. Subject to the developed design addressing the issues raised, and general compliance with controls, including FSR, the approach was supported."

The current amended proposal is considered to have adequately addressed the key areas of concern raised by the UDCG with respect to access, landscaping, amenity and aesthetics. The development is considered overall to be an appropriate response to the site and its surroundings within the context of growth and site redevelopment within this City Centre location.

20 September 2017:

"The issues raised above should be resolved and the application submitted to the Panel at DA stage."

11 December 2017:

The Group remains broadly supportive of the quality of the design for the development, which has good potential to provide high quality, amenable accommodation."

Apartment Design Guide (ADG) - Key "Rule of Thumb" Numerical Compliances

The ADG provides benchmarks and guidelines for the design and assessment of a residential apartment development. The following section contains an assessment of the development against key controls of the ADG.

3B Orientation

The orientation of the building and floor plans respond to the specific site conditions to allow for available views, optimising solar access to units and creating a high level of cross ventilation to all apartments. Overshadowing to neighbouring buildings has been minimised. Any additional overshadowing caused by the proposal is to surrounding street and commercial buildings only.

3C Public Domain interface

Ground level access to the retail is directly addressing the street. The new building replaces a former run-down commercial building in a key location of the city. Ground level commercial tenancies supported by good quality public terraces to the streets provide a good interface to the public domain.

The proposal includes a number of additional street trees along Merewether Street and Centenary Road to improve the public domain.

3D Communal and Public open space

The proposal provides communal open spaces throughout all the residential levels and on the roof top. The communal roof top space achieves direct sunlight in mid-winter throughout the day. All communal open spaces are supported by generous landscaping and have been designed to offer a high-quality amenity for a variety of uses.

All communal open space is designed to be accessible to all residents, with good passive surveillance. Publicly accessible ground level areas support the commercial spaces.

3E Deep Soil Zones

The SEPP acknowledges that deep soil zones may not be possible on some sites, due to their CBD location, and the fact that there are non-residential uses at ground floor level. Both of these conditions are relevant to this site.

Non-residential uses on the ground floor, with zero setbacks to address the urban built form, does not leave space for deep soil planting within the site.

Substantial landscaping has been provided on the podium facades, on the podium roof and along each of the residential floors. Additional street trees are proposed outside the boundary, along Merewether Street and Centenary Road, to improve the overall streetscape.

3F Visual Privacy

The building orientation and apartment layout angle away from the boundary and allow for straight views past any future expected development on the eastern neighbouring site. Where building separation is not achieved, visual and acoustic privacy is achieved through the use of screening and visual separation.

3G Pedestrian Access and Entries

The main building entry is accessed from Merewether Street. The pedestrian entries on to the podium are clearly defined from the street and have direct access to the lobby.

3H Vehicle Access

Vehicle access is from Centenary Road, in a similar location as the former double driveway crossover. The car park entry allows for vehicles to safely enter and exit from the site. Materials, height and setbacks has been used to define the residential and ground floor loading and car park entries.

3J Bicycle and Car Parking

Parking facilities have been provided at ground level to accommodate the number of apartments in the building, as well as the commercial tenancy. The visual impact of the parking has been minimised through the use of materials, screening and landscaping. Adequate off-street parking has been provided for each apartment.

4A Solar and Daylight Access

The proposal is designed to optimise sunlight to all units. Generously sized windows to living rooms optimise sun access in mid-winter, while balcony projections in front of the glazing offer shading in the summer months.

Over 70% of the apartments receive a minimum of two hours direct sunlight between 9am and 3pm at mid-winter, with only 8% receiving no direct sunlight.

4B Natural Ventilation:

100% of the apartments are naturally cross ventilated and do not exceed 18m in depth.

4C Ceiling Height:

2.7m minimum floor to ceilings for habitable rooms and 2.4m minimum for non-habitable rooms has been achieved while the floor plate depths allow for maximum penetration of natural light into the space.

4D Apartment Size and Layout

All apartment sizes are greater than the minimum required under SEPP 65, to provide a better level of amenity and an alternative to other apartments currently on the market.

Each apartment layout provides a high level of residential amenity and exceeds the minimum standards for habitable room sizes. All kitchens are no more than 8m from a window. The width of each apartment type is greater than 4m.

4E Private Open Space and Balconies

All apartments have a balcony with a minimum depth of 2m or greater. The configuration of balconies and apartments will provide a good level of surveillance to public and private areas.

4F Common Circulation and Spaces

Each residential storey has eight apartments which are serviced by one core, consisting of two lifts and one fire egress stair.

4H Acoustic Privacy

The building layout has been designed to achieve minimisation of noise transfer to and from apartments. Acoustic treatments to walls, floors and ceilings further reduce noise transfer.

SEPP 65 Concluding Comment:

The proposal is considered to be acceptable having regard to SEPP65, taking into consideration the design criteria in the Apartment Design Guide and comments received from the UDCG in respect of the design principles.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

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

Clause 2.1 - Land Use Zones

Clause 2.3 - Zone objectives and land use table

The property is located within the B4 Mixed Use zone under the provisions of NLEP 2012.

The proposal is a mixed use development comprising commercial premises on the ground floor with a residential flat building above. The proposed development is permissible in the zone and consistent with the objectives for the zone.

The proposal is also considered to be consistent with the zone objectives, which are:

- a) *To provide a mixture of compatible land uses.*
- b) *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- c) *To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.*

It is considered that the proposed development will successfully integrate commercial and residential uses on the site. The site is well located with respect to public transport and City Centre amenity. The proposal is considered to support the

viability of the City Centre through increased housing and employment opportunities within the area.

Clause 4.3 - Height of Buildings

The proposed development does not comply with the height of buildings development standard of 30m under NLEP 2012. The parapet height of the proposed building is 29.6m and the maximum height is 33.2m (including lift over-run and rooftop communal area). This equates to a 11% variation to the height of buildings development standard.

The applicant has submitted a clause 4.6 variation request to this standard. Refer to discussion under Clause 4.6 Exceptions to Development Standards below.

Clause 4.4 - Floor Space Ratio

The proposed development does not comply with the floor space ratio (FSR) development standard of 2.5:1 under NLEP 2012. The proposed development has a FSR of 2.98:1, which equates to a 19.2% variation to the FSR development standard.

The applicant has submitted a clause 4.6 variation request to this standard. Refer to discussion under Clause 4.6 Exceptions to Development Standards below.

Clause 4.6 - Exceptions to development standards

Clause 4.6 of NLEP 2012 enables consent to be granted to a development even though the development would contravene a development standard. In assessing the proposal against the provisions of clause 4.6, it is noted that:

1. Clause 4.3 (Height of Buildings) and 4.4 (Floor Space Ratio) are not excluded from the operation of this clause; and
2. The applicant has prepared a written request (as per Clause 4.6(3)), requesting that CN vary the development standard and demonstrating that:
 - a) *Compliance with the development standards is unreasonable or unnecessary in the circumstances of the case, and*
 - b) *There are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant's written submission contends that enforcing compliance with both the 30m building height and the 2.5:1 FSR development standards are unreasonable or unnecessary in the circumstances. An extract of the applicant's request to vary the Development Standards is provided below.

What are the objectives of the development standard?

The objectives of Clause 4.3 – Height of Buildings are as follows:

- a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,
- b) to allow reasonable daylight access to all developments and the public domain.

The objectives of Clause 4.4 – Floor Space Ratio are as follows:

- a) to provide an appropriate density of development consistent with the established centres hierarchy,
- b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

What is the proposed numeric value of the development standards in your development application?

The numeric value of the proposed development and percentage variation are detailed in the following table:

Height

LEP Clause	Control	Proposal	Variation
Clause 4.3 – Building Height	30m	29.6m (parapet)	Compliant
		33.2m (lift over-run)	3.2m (11%)

Floor Space Ratio

LEP Clause	Control	Proposal	Variation
Clause 4.4 – Floor Space Ratio	2.5:1 (3,927.5m ²)	2.98:1 (4,680m ²)	752.5m ² (19.2%)

Overall, it is submitted that the development is consistent with the objectives of Clause 4.3 and Clause 4.4 for the following reasons:

- 1) The proposed development meets the underlying intent of the controls and is a compatible form of development that does not result in unreasonable environmental amenity;

- 2) *As demonstrated in the Apartment Design Guidelines (SEPP 65 Statement), the proposal provides a high level of amenity, both internally and from the public realm;*
- 3) *The height variation requested relates to only one specific location exceeding the control by 3.2m (11%);*
- 4) *The FSR variation (19.2%) is largely due to the development providing additional car spaces for residents and visitors;*
- 5) *The site is physically separated from nearby Heritage Items and will not adversely impact on their heritage values;*
- 6) *The proposal is of an overall height, scale, bulk, design and external appearance that are in keeping with other similar developments approved, being constructed or currently before Council for the local area. In this regard, modification of the building to achieve numerical compliance will not ensure that the resultant development will achieve any greater level of amenity for residents;*
- 7) *The proposed built form will reflect the desired character of the streetscape in the Civic Precinct and upgrade the existing building on the site. It will not result in an overbearing visual impact, particularly given the separations between neighbouring built forms;*
- 8) *The proposed residential development has been designed with an unobtrusive top level to reduce the overall bulk and height of the building;*
- 9) *The proposal provides a range of housing types and dwelling sizes, including one, two and three-bedroom configurations, thereby providing a range of housing choices for residents;*
- 10) *The proposal contributes a mix of land uses to the locality, encouraging employment opportunities and sustainable living;*
- 11) *The excess height resulting from non-compliance will not result in any undue impacts on adjoining properties particularly with respect to overshadowing, loss of privacy and loss of views; and*
- 12) *The application satisfies other numerical standards and has the strong support of the UDCG as the proposal is considered a high-quality development.*

Are there Sufficient Environmental Planning Grounds?

This assessment demonstrates that the resultant environmental impacts of the proposal are considered to be satisfactory. If made to strictly comply with Clause 4.3 and 4.4, there would be no additional benefit to the streetscape, neighbouring

properties and the local area. The granting of development consent will enable a high quality, architecturally designed mixed use commercial and residential building to be constructed in Newcastle. The objectives of Clause 4.3, Clause 4.4 and B4 Mixed Use Zone have been met with the proposed development. In light of this, there is considered to be sufficient environmental planning grounds to justify contravening these two development standards in this instance.

Officer's comment

An assessment of the request has been undertaken and it is considered that:

- a) It adequately addresses the matters required to be demonstrated by clause 4.6(3) of NLEP 2012; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the B4 Mixed Use zone in which the development is proposed to be carried out; and
- c) The Secretary's (ie of the Department of Planning, Industry and Environment) concurrence to the exception to the height of buildings and floor space ratio development standards as required by clause 4.6(4)(b) of NLEP 2012, is assumed, as per Department of Planning Circular PS18-003 of 21 February 2018; and
- d) The applicant has demonstrated that the standard is unreasonable and unnecessary in this instance, that the proposed height, scale and density of development is consistent with the character of surrounding developments in the area and is in accordance with the relevant zone objectives. The proposed variations would not result in any significant impacts and therefore the proposal has planning merit.

The proposed exceptions to the height of building and floor space ratio Development Standards of NLEP 2012 is an acceptable planning outcome and in this instance strict compliance would be unnecessary. The proposed variations to the development standards in this instance do not cause any undue adverse environmental impacts, including impacts on neighbouring properties in terms of overshadowing and visual privacy.

The proposal is consistent with the intended future urban form within the area, having regard to the combination of controls under NLEP 2012 and Newcastle Development Control Plan 2012 (notably Section 6.01 Newcastle City Centre).

The request for the height of the proposed building to exceed the 30m building height and the 2.5:1 floor space ratio is supported.

Clause 5.10 - Heritage Conservation

Clause 5.10 is applicable to the site given its location within the Newcastle City Centre Heritage Conservation Area and the presence of two listed heritage items nearby, as follows:

- i) *Item 415: Remains of AA Co., bridge and fence located within the redundant railway corridor land; and*
- ii) *Item 479: Civic Railway Workshops Group on the opposite side of Merewether Street, currently housing the Newcastle Museum.*

The submitted Heritage Impact Statement concludes that the proposed development will have minimal impact on the heritage significance of the existing State listed former Civic Railway Workshops buildings or the surrounding heritage conservation area, due to the development conforming with the requirements of NLEP 2012 and NDCP 2012. The proposal is proportioned to address the adjacent streetscape. The bulk and scale of the development, together with the façade, sits comfortably in the conservation area and complements both the period architecture and other infill contemporary designs.

The proposed development will not significantly affect the heritage significance of the listed heritage buildings, nor detract from their setting or obstruct any view of these heritage items from public places. It is also considered that the proposed development will not significantly affect the heritage significance of the Newcastle City Centre Heritage Conservation Area.

Clause 6.1 - Acid Sulfate Soils

The site is identified as having potential acid sulfate soils Class 3 and Class 4. A site-specific Acid Sulfate Soil Management Plan has been submitted with the application. Compliance with the Plan is included as a recommended condition. The proposed development is considered satisfactory in this regard.

Clause 6.2 - Earthworks

The level of earthworks proposed to facilitate the development is considered to be acceptable having regard to this clause. The design suitably minimises the extent of proposed earthworks, having regard to the site constraints.

Part 7 Additional local provisions - Newcastle City Centre

The site is located within the City Centre. There are a number of requirements and objectives for development within the City Centre, which includes promoting the economic revitalisation of the City Centre, facilitating design excellence and protecting the natural and cultural heritage of Newcastle. The proposal is considered to be consistent with the objectives of Part 7 of NLEP 2012.

Clause 7.4 - Building Separation

The building height of the proposed development does not exceed 45 metres and is therefore compliant with this clause.

Clause 7.5 - Design excellence

The amended proposal provides an acceptable level of amenity within the context of the area and is generally consistent with state and local guidelines relating to building design and amenity. As such, the amended proposal is considered to address the predominant concerns of the UDCG and Council's assessment and is an acceptable form of development within the context of the site and location.

The development will assist with enhancing the quality and amenity of the public domain through street activation, while not adversely impacting on any identified view corridors. The design of the development has appropriately addressed cultural heritage issues and resolved streetscape constraints and circulation requirements. The proposed building's bulk, mass and articulation sit comfortably within the streetscape. The proposal is acceptable having regard to environmental impacts and the principles of ecologically sustainable development.

The proposal does not generate a requirement to undertake an architectural design competition as the height of the proposed building is not greater than 48m and the site is not identified as a key site within the City Centre.

It is considered that design excellence has been achieved, as required by this clause.

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

There is no exhibited draft environmental planning instrument relevant to the application.

5.3 Any development control plan

Newcastle Development Control Plan 2012 (NDCP 2012)

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

Residential Development - Section 3.03

This section applies with respect to the character associated with design and appearance. The overall floor space ratio, height and character of the development is considered to be acceptable in the context of the area and the site, as previously discussed elsewhere in this report.

The design and appearance of the building is contemporary, reflecting the uses of the proposed development and also the larger redevelopment which has occurred within adjoining sites and the broader area.

Commercial Uses - Section 3.10

The proposed development is considered to achieve the objectives and controls within this section of the NDCP 2012. These include activation of street frontages, promotion of uses that attract pedestrian traffic along ground floor street frontages for commercial and retail premises, and compatibility with other redevelopment sites in the locality.

The provision of ground level commercial space will activate this part of Merewether Street by promoting increased activity in the locality. Separate pedestrian accesses are proposed to the commercial tenancies from the street.

Flood Management - Section 4.01

Council's Senior Development Officer (Engineering) has provided the following comments in relation to the proposal:

"The flood planning levels for the proposed development is generally based on the highest flood level, in this case flash flooding. The recommended flood planning level (FPL) is therefore 2.80m AHD.

The retail area on the ground floor level has been set at the FPL of 2.80m AHD. The proposed electrical switch room and services will need to also be designed to FPL. Lift wells and other essential infrastructure will need to be designed at FPL.

The ground floor parking levels and the entry to carpark entry and service areas have been designed at 2.3m AHD.

Access points to/from within the building and outside the building such as fire stairs have been designed to recommended flood planning levels.

The proposal generally complies with Council's Flood Management DCP and conditions are recommended to ensure that the services to the proposed building on Ground Floor are set at FPL."

Accordingly, the proposal is considered to be acceptable in relation to flooding risk.

Mine Subsidence - Section 4.03

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

Safety and Security - Section 4.04

The overall building design and functionality, with frontage to two streets, allows increased casual surveillance of all surrounding footpath areas.

The proposal achieves good surveillance by providing clear sight lines between private and public spaces, effective lighting of public places, suitable landscaping and activation of street frontages.

Social Impact - Section 4.05

The proposed development will have a positive impact within the community as it will provide additional well-designed and varied housing opportunities within the City Centre.

It is considered unlikely that a residential development of this nature would result in increased anti-social behaviour. The development provides for increased housing choice within the area, which is considered a positive social outcome.

It is considered that the proposed development will positively contribute to the diversity of the Civic Precinct and will not result in any negative social impacts on the community.

Soil Management - Section 5.01

Excavation is limited to piers required to support the structure, which results in minimal earthworks being required.

Relevant conditions relating to sediment and erosion control have been included in the Draft Schedule of Conditions (refer to **Attachment B**).

Land Contamination - Section 5.02

Contamination is considered acceptable, as previously discussed under the consideration of SEPP 55 provisions.

Aboriginal Heritage - Section 5.04

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

Heritage Items - Section 5.05

As previously stated under clause 5.10 of NLEP 2012, the proposal is considered acceptable, as it will not have a significant impact on the heritage significance of the nearby heritage items.

Archaeological Management - Section 5.06

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

An Archaeological Assessment has been submitted. The submitted report considers that there is no potential for any historical (non-Aboriginal) archaeological relics of significance to be present within the site.

The site does not contain any recorded Aboriginal archaeological sites. However, the project area has a high degree of potential to contain Aboriginal archaeological material within relatively undisturbed sub-surface profiles associated with the fore-dune system. It is recommended that further investigations and consultation be undertaken prior to construction. A condition relating to an archaeological study to be reviewed by the Local Aboriginal Land Council is included in the Draft Schedule of Conditions (refer to **Attachment B**).

Heritage Conservation Areas - Section 5.07

As previously stated under clause 5.10 of NLEP 2012, the proposal is considered acceptable, as it will not have a significant impact on the heritage significance of the Newcastle City Centre Heritage Conservation Area.

Newcastle City Centre - Section 6.01

The proposed development is for the redevelopment of the site and is generally consistent with this section. A summary of compliance with the relevant controls of this section is provided below.

The existing public spaces surrounding the site will be enhanced through improved street planting and pavement construction.

Character Areas (6.01.02)

The subject site is within the Civic character area. A number of key principles for the Civic character area are outlined within this section and while a number do not have direct relevance to the proposed site, overall the proposal is considered to be consistent with the Civic character area. The ground floor level commercial spaces will help to respond to an anticipated increase in demand for services in the area.

Street wall heights (6.01.03 A1)

A typical street wall height of 16 metres and 6 metre upper level setback is intended to assist in ensuring a consistent building scale in streets that have a mix of uses, heritage items and infill development. The proposal complies with the street wall height and is of an appropriate scale relative to surrounding development.

The upper floor setbacks have been reduced in some parts. While some portions are built right to the boundary, some portions are setback further than the required 6m. It is considered that the proposed development is appropriately scaled to respond to adjacent development and is satisfactory with respect to the performance criteria for this section of the NDCP 2012.

Building setbacks (6.01.03 A2)

The NDCP 2012 specifies setbacks from side and rear boundaries, above street wall height, of 6m. In this respect, the proposed development includes parts that adjoin the side and rear boundaries.

Overall, in considering the proposed built form and massing, setbacks provided and articulation and depth of building along the side and rear boundaries, the reduced setbacks are considered to be acceptable.

Building separation (6.01.03 A3)

Adequate daylight, ventilation, outlook, view sharing and privacy is achieved for each unit. While some portions of the units are built right to the boundary, some portions are set back further than the required 6m.

This provides a suitable architectural form for the corner of the building and the site. The positioning of the apartments within the setback provides better outcomes for occupant amenity in relation to solar access, cross ventilation, open space and landscaping opportunities. Additional screening measures for privacy have been integrated into the building design to prevent direct overlooking and to maintain residential amenity. Balconies for private and communal open space also exist within these setbacks, affording casual surveillance of the surrounding public domain.

Building depth and bulk (6.01.03 A4)

The proposed building maintains floor plates below the recommended maximum of 900m² above street wall height. Above podium level, the building is expressed as four separate building elements of appropriate bulk and scale, consistent with the desired future character of development within the locality.

Building exteriors (6.01.03 A5)

Materials and finishes complement the character of the precinct. High quality, durable materials are proposed.

Heritage buildings (6.01.03 A6)

The proposed development is located in the vicinity of two heritage items. The proposed development respects and enhances the setting and significance of local heritage items as a discussed previously under clause 5.10 of NLEP 2012.

Awnings (6.01.03 A7)

Awnings have been provided and designed to be incorporated as part of the architectural design of the building and are appropriate for the site.

Design of car parking structures (6.01.03 A8)

Car parking is well integrated into the overall building design through the use appropriate materials and facade treatments.

Access network (6.01.03 B1)

The development will improve pedestrian amenity along Merewether Street and Centenary Road, providing surveillance of the street from the commercial premises at ground level, as well as from residences above. Suitable lighting will be included and active street frontages through large-span glazed openings to Merewether Street and Centenary Road.

Public transport stops are located within close proximity to the site, with adequate pedestrian access available.

Views and Vista (6.01.03 B2)

The proposed development will not unduly impact on public or private views or vistas.

Active Street frontages (6.01.03 B3)

The development includes active street frontages to Merewether Street and Centenary Road through provision of commercial premises at ground level with large expanses of glazing and openings, encouraging activity and visual connection between the premises and the street.

Public artwork (6.01.03 B5)

The building is not a public or civic building and does not exceed 45m, therefore a public art requirement is not applicable.

Sun access to public spaces (6.01.03 B6)

The site does not affect solar access to any significant public spaces.

Landscape Open Space & Visual Amenity - Section 7.02

A qualified Landscape Architect has prepared the submitted landscape concept plan. No tree removal is sought with the proposed development.

Vertical greenery, planter boxes and a landscaped podium on Level 3 are proposed. The development incorporates appropriate planting on the building that complements the architecture and affords high level of amenity and comfort for future occupants. The landscape design also contributes positively to the visual impact of the building, from all aspects. The proposal is acceptable having regard to the requirements of this section.

Traffic, Parking & Access - Section 7.03

The proposal has been assessed by Council's Senior Development Officer (Engineering) and is considered to be acceptable subject to conditions, as recommended. Details of the traffic and parking assessment are outlined below within Section 5.6 of this report.

Section 7.05 - Energy efficiency

The applicant has submitted a BASIX report and has met the requirements for water and energy efficiency and thermal comfort. The proposal is acceptable having regard to this section.

Stormwater- Section 7.06 & Water Efficiency - Section 7.07

The proposed development has been assessed by Council's Senior Development Officer (Engineering) and is considered to be acceptable subject to conditions, as recommended.

The proposal can comply with CN's policies relating to stormwater management. Appropriate conditions have been recommended in the Draft Schedule of Conditions (refer to **Attachment B**) to ensure that the development meets the specified standards.

Waste Management - Section 7.08

A Waste Management Plan (inclusive of Site Waste Minimisation Management Plan) was included as part of the application. Details of management of construction waste materials and operational waste are included in the Plan. The proposal provides for on-site storage facilities.

Residential and commercial waste collection areas have been provided within the development site on the ground floor. Further confirmation will be required with respect to servicing, either by private contractor or CN waste service, however, there is sufficient space on-street for kerb side collection and any bins will be manually transported to Centenary Road for collection and then returned directly to the refuse storage area. Relevant conditions have been recommended within the Draft Schedule of Conditions (refer to **Attachment B**).

Street Awnings and Balconies - Section 7.10

The street awnings and balconies have been architecturally designed and are appropriate for the site in this location.

Public Participation - Section 8.0

The proposal was notified to neighbouring properties for 14 days in accordance with the provisions of the NDCP 2012. A total of 3 submissions objecting to the proposal were received. Comments are provided in Section 5.8 below.

Development Contributions

Sections 7.11 and 7.12 of the Environmental Planning and Assessment Act 1979 enable CN to levy contributions for public amenities and services. The proposed development would attract a development contribution, as detailed in CN's Development Contributions Plan.

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

5.4 Planning agreements

No planning agreements are relevant to the proposal.

5.5 The regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

No Coastal Management Plan applies to the site or the proposed development.

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

There are no significant external impacts associated with the proposal. The application has demonstrated that there will be no significant adverse traffic impacts and it is considered that the development does not cause any significant overshadowing, privacy impacts or view loss for nearby properties.

The proposal is likely to have broad positive economic and social impacts in that it will create additional employment opportunities, support the demand for local services and facilities and increase social activity and street activation within this central City Centre location, close to existing amenities and public transport services

The character, bulk and scale of the proposal have been discussed in this report, in the context of the SEPP 65 guidelines, NLEP 2012 and NDCP 2012 controls. The proposal is considered to be acceptable in this regard.

b) Character, Streetscape, External Appearance, Urban Design, Height, Bulk and Scale

The application is considered that the amended plans are acceptable having regard to the proposed height, external appearance, character, bulk and scale. The proposal has been assessed by Council's Urban Design Consultative Group and is considered to be acceptable having regard to the provisions of SEPP 65 and the Apartment Design Guide

c) Traffic, Access and Parking

The proposal has been assessed by Council's Senior Development Officer (Traffic) and found to be acceptable, subject to draft conditions included in **Attachment B**. Council's Senior Development Officer (Traffic) provided the following comments:

Loading

"Three (3) parking spaces on the ground floor are provided as loading bays. A modification to the ground floor is required to allow a small Rigid Vehicle (SRV) to service the development. The parking layout will need to be redesigned to allow for the truck to manoeuvre within the site and exit in a forward direction. This will require the relocation of 1 disabled parking space and a minor redesign of the entry roller door."

Driveway & Access

"The proposal seeks to provide a new driveway access from Centenary Rd frontage of the property. The internal driveway ramp grades have been designed to comply with AS2890.1 - Off-Street Car Parking. The design of the internal car parking and loading areas are generally compliant with AS2890.1 and AS2890.2.

Th submitted traffic report has demonstrated that the operation of the roller door will not result in delays for traffic on the road and adequate sight lines are available for drivers. Additional signs and a convex mirror will be provided for pedestrian safety adjoining the driveway. Existing driveways will be made redundant and additional on-street parking can be accommodated at these spaces."

Construction Traffic

"Entry to the site will be restricted via Centenary Road for site access. Prior to construction, the applicant will be required to obtain approval for a work zone and address how the construction traffic management will be managed, including staff parking and trades parking management. This will require a separate application to be lodged with City's Transport & Traffic Section."

Traffic Generation

"The traffic generation from the development will not adversely impact on the current road network and is sustainable. The submitted traffic report has identified the morning peak inbound traffic generation of 38 vph. The development is in very close proximity to the new Civic Station. Furthermore, the development is within walking and riding distances to the waterfront and the future Newcastle City Commercial hub in Newcastle West.

The submitted Traffic Report has demonstrated that the proposed development has complied with City's DCP and relevant Australian Standards for off-street

parking. The development will not cause traffic delays or impact traffic flows and can be sustained in terms of the traffic management.”

Public Domain

“A 500mm footpath widening is required to be undertaken along the Centenary Road frontage to ensure adequate footpath infrastructure and street tree plantings can be provided. The widening will not have any major impacts on the building design and could be resolved at construction certificate stage. Public domain upgrade works including street lighting, footpath works, civil and drainage works, and pedestrian ramps will need to be undertaken. Any changes to the on-street parking including requests for new loading zones will need to be approved by Newcastle City Traffic Committee as part of the construction certificate process.”

Comment: The proposed development is considered to be acceptable with regard to its impacts on local traffic conditions, pedestrian safety and traffic management measures.

c) Amenity (Privacy, Overshadowing & Views)

Privacy

The proposal achieves adequate visual and acoustic privacy for the proposed residential development and for the surrounding properties and potential future development. The use of articulated building design, as well as screening devices and planting provide for a building that will not adversely impact on the privacy of nearby properties and will afford a high level of amenity for occupants.

Acoustics

A noise assessment was carried out to support the proposed development. The noise assessment demonstrated that compliance with internal noise level requirements would be achieved. This assessment examined the impact of environmental noise intrusion into the development from both rail and road noise sources and impacts on nearby receivers from operational noise associated with the development.

Views

There are no significant views that will be impacted in this location. The proposal does not have a significant adverse impact on the adjoining properties in terms of views. The development will alter the general outlook due to the proposed changes in size and scale, but this is considered to be reasonable having regard to the allowable height and scale for development under relevant planning policies.

Overshadowing

Any additional overshadowing caused by the proposal is primarily to the surrounding street and commercial buildings and is considered acceptable in this regard.

5.7 The suitability of the site for the development

The site is suitable for the proposed development as it is located in the City Centre, which is well serviced by shops, transport, recreational and educational facilities. A higher density residential use of the site is appropriate as it would assist with the revitalisation of the precinct and allow people to live within walking distance of local employment.

The constraints of the site have been considered in the proposed development, which includes flooding, contamination, acid sulfate soils and heritage.

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

The application was notified in accordance with CN's public participation policy. Three submissions objecting to the proposal were received during the notification period.

The key issues raised within the submissions have been discussed previously in this report. The following table provides a summary of issues raised and a response to those issues.

Issue	Comment
Non-compliance with the height of buildings development standard of the NLEP 2012	The application proposes a variation to the development standard to allow for the exceedance in height. This variation only relates to the lift overrun and covered communal area that comprises a very small portion of the site, which is considered acceptable.
Non-compliance with the floor space ratio development standard of the NLEP 2012	The development is considered to be of appropriate bulk and scale for the site's locality, in the City Centre. The development has been designed with a podium comprising of three levels and a tower with six levels. The setback of the tower has been designed to minimise any potential bulk and scale impacts.
Overshadowing	Any additional overshadowing caused by the proposed development is primarily to the surrounding street and commercial buildings. The mixed use building at 335 Wharf Road is

located to the north of the development site and therefore no overshadowing impacts will occur to this building.

Noise

The concerns raised in the submissions regarding noise largely relate to the use of the building as short stay accommodation. As previously noted, the proposal does not include any form of tourist and visitor accommodation.

Concerns were also raised in the submissions, regarding the proposed hours of operation for the ground floor commercial tenancies. Future development applications are required for the use of the tenancies, other than for routine commercial usage.

Views and view corridors

In acknowledging the available aspects to the north, west and east, the impacts from the proposal are considered reasonable, in the context of City Centre environment. The proposed impacts are generally consistent with the impacts of a building that is compliant with the height and FSR development standards .

Design and character

The proposed development is acceptable with regards to its overall design and character within the City Centre, particularly with respect to the Civic Precinct.

Apartment sizes

All apartment sizes are in excess of the minimum requirements and have been designed to cater for a variety of housing needs, including the needs of families, couples and students.

Location of proposed driveway on Centenary Road – safety and restriction on accessibility

Vehicle access is from Centenary Road, in a similar location as the former double driveway crossover. Centenary Road is of a secondary nature in terms of overall traffic volume which minimises the impact of the proposed development on existing traffic flow patterns.

Traffic and pedestrian safety

The driveways and cross overs have been designed to allow for a high degree of visibility for both pedestrians and drivers, to maximise safety and reduce conflicts.

Traffic congestion in Centenary Road The development provides sufficient car parking in accordance with the NDCP 2012 car parking requirements, ensuring that the proposal would not have any unreasonable on-street parking impacts.

Centenary Road is of a secondary nature in terms of overall traffic volume, which will not change as a result of the proposed development.

Potential use of residential units as short-term accommodation, student housing or boarding house accommodation The proposal is not for a boarding house or any form of visitor and tourism accommodation and, accordingly, the development is not of concern in this respect.

Potential future use of commercial tenancies – Potential for licensed premises with extended trading hours The fitout and use of the commercial tenancies will be subject to future separate development applications, other than for routine commercial usage.

5.9 The public interest

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report. Overall, the proposed development will have an acceptable impact on the surrounding natural and built environment and would have positive social and economic impacts.

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development. The proposal is consistent with CN's urban consolidation objectives, making more efficient use of established public infrastructure and services.

The development is in the public interest and will allow for the orderly and economic development of the site. It will allow for the construction of commercial premises and residential accommodation in an area that is well serviced by public transport and community facilities and will assist with the revitalisation of the City.

The proposed development would provide housing in a well-serviced area to meet the demands of a growing population, while incorporating a range of housing choice within the City Centre. The proposal includes sufficient measures to address potential crime and safety issues.

6.0 CONCLUSION

The proposal is acceptable against the relevant heads of consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in **Attachment B** are included in any consent issued.

ATTACHMENTS

Item 11 Attachment A: Submitted Plans - Under Separate Cover - 1 Merewether Street Newcastle

Item 11 Attachment B: Draft Schedule of Conditions - 1 Merewether Street Newcastle

Item 11 Attachment C: Processing Chronology - 1 Merewether Street Newcastle

Item 11 Attachment A

Submitted Plans - Under Separate Cover - 1 Merewether Street Newcastle

Item 11 Attachment B

DRAFT SCHEDULE OF CONDITIONS



Application No: DA2017/01382

Land: Lot 163 DP 32620
Lot 164 DP 32620
Lot 165 DP 32620
Lot 166 DP 32620
Lot 175 DP 151093

Property Address: 1 Merewether Street Newcastle NSW 2300

Proposed Development: Erection of nine-storey mixed use development with 48 residential units, two commercial tenancies associated carparking and landscaping

SCHEDULE 1

APPROVED DOCUMENTATION

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No. / Supporting Document	Reference / Version	Prepared by	Dated
SITE PLAN	DA-002	CHROFI	2 NOVEMBER 2017
DEMOLITION PLN	DA-003	CHROFI	2 NOVEMBER 2017
SCHEDULE OF PROPOSED MATERIALS	DA-004	CHROFI	2 NOVEMBER 2017
GROUND FLOOR PLAN	DA-102	CHROFI	2 NOVEMBER 2017
LEVEL 1 FLOOR PLAN	DA-103	CHROFI	2 NOVEMBER 2017
LEVEL 2 FLOOR PLAN	DA-104	CHROFI	2 NOVEMBER 2017
LEVEL 3 FLOOR PLAN	DA-105	CHROFI	2 NOVEMBER 2017
LEVEL 4 FLOOR PLAN	DA-106	CHROFI	2 NOVEMBER 2017
LEVEL 5 FLOOR PLAN	DA-107	CHROFI	2 NOVEMBER 2017
LEVEL 5 FLOOR PLAN	DA-108	CHROFI	2 NOVEMBER 2017
LEVEL 6 FLOOR PLAN	DA-109	CHROFI	2 NOVEMBER 2017
LEVEL 7 FLOOR PLAN	DA-110	CHROFI	2 NOVEMBER 2017

CITY OF NEWCASTLE

Development Applications Committee Meeting 20 August 2019

Page 164

LEVEL 8 FLOOR PLAN	DA-111	CHROFI	2 NOVEMBER 2017
ROOF PLAN	DA-200	CHROFI	2 NOVEMBER 2017
ELEVATIONS	DA-201	CHROFI	2 NOVEMBER 2017
ELEVATIONS	DA-202	CHROFI	2 NOVEMBER 2017
ELEVATIONS	DA-203	CHROFI	2 NOVEMBER 2017
ELEVATIONS	DA-300	CHROFI	2 NOVEMBER 2017
DRIVEWAY SECTION	DA-301	CHROFI	2 NOVEMBER 2017
SECTION	DA-302	CHROFI	2 NOVEMBER 2017
SHADOW DIAGRAM	DA-420	CHROFI	2 NOVEMBER 2017
SHADOW DIAGRAM	DA-421	CHROFI	2 NOVEMBER 2017
SHADOW DIAGRAM	DA-422	CHROFI	2 NOVEMBER 2017
SHADOW DIAGRAM	DA-423	CHROFI	2 NOVEMBER 2017
SOLAR ACCESS DIAGRAMS	DA-425	CHROFI	2 NOVEMBER 2017
CROSS VENTILATION DIAGRAMS	DA-426	CHROFI	2 NOVEMBER 2017
COMMON CORRIDOR DETAIL	DA-427	CHROFI	2 NOVEMBER 2017
BUILDING MASS ARTICULATION – CORNER DETAIL	DA-428	CHROFI	2 NOVEMBER 2017
LANDSCAPE & PUBLIC DOMAIN CONCEPT	D	SYDNEY DESIGN COLLECTIVE	6 JUNE 2019
HERITAGE IMPACT STATEMENT	C	JOHN CARR	OCTOBER 2017
ACID SULFATE SOILS MANAGEMENT PLAN	-	DOUGLAS PARTNERS	SEPTEMBER 2017
TRAFFIC IMPACT ASSESSMENT	-	INTERSECT	OCTOBER 2017
WIND ENVIRONMENT ASSESSMENT	-	GWTS	OCTOBER 2017
ARCHAEOLOGICAL ASSESSMENT	-	UMWELT	NOVEMBER 2017
REMEDIATION ACTION PLAN	-	DOUGLAS PARTNERS	JANUARY 2018
RAP ADDENDUM	-	ARCADIS	JANUARY 2019
INTERIM ADVICE	-	RAMBOLL	MARCH 2019
PHASE 2 ENVIRONMENTAL ASSESSMENT	-	ARCADIS	JANUARY 2019
NOISE ASSESSMENT	-	MULLER	MARCH 2019

		ACOUSTIC CONSULTING	
STATEMENT OF ENVIRONMENTAL EFFECTS		KDC	NOVEMBER 2017

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. A total monetary contribution of \$562,815.00 is to be paid to City of Newcastle, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

- a) This condition is imposed in accordance with the provisions of the *City of Newcastle S94A Development Contributions Plan 2009* (updated version operational from 15 March 2011). A copy of the plan may be inspected at City of Newcastle's Customer Enquiry Centre, 8.30 am to 5.00 pm, excluding public holidays.
- b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.
- c) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact City of Newcastle's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

3. The proposed verandah/awning is to be designed to meet the requirements of Element 7.10 '*Street Awnings and Balconies*' of the Newcastle Development Control Plan 2012. Details are to be included in documentation for a Construction Certificate application.
4. On-site parking accommodation is to be provided for a minimum of 70 car parking spaces (10 car spaces for residential visitor parking and 8 car parking spaces for commercial units), 4 motorbikes and 55 secured bicycle spaces (Class 2) vehicles and meet the minimum parking layout standards indicated in Element 7.03 '*Traffic, Parking*

and Access' of City of Newcastle's adopted Newcastle Development Control Plan 2012. Details are to be included in documentation for a Construction Certificate application.

5. The proposed garage roller door openings for the ground level parking is to be a minimum height of 3.5m clear to allow for a small rigid vehicle access into the car park for loading/unloading purposes. Full details are to be included in documentation for a Construction Certificate application.
6. The car parking and vehicular access is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.
7. The car park is to be designed to comply with AS/NZS 2890.2:2002: Parking facilities – Off-street car commercial vehicle facilities. The loading area is to be designed for a small rigid vehicle to enter/exit in a forward direction. The disabled parking at the rear is to be removed to make provision for the turning area. The floor to ceiling height is to be minimum of 3.5m clear for the loading area. Full details are to be included in documentation for a Construction Certificate application.
8. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
9. Traffic management devices in the form of a safety mirrors, Stop and Give Way to pedestrian signs and Line markings is to be installed within the property. Such devices are to be constructed in accordance with AS/NZS 2890.1:2004: Parking facilities – Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
10. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004: Parking facilities – Off-street car parking. Full details are to be included in documentation for any Construction Certificate application.
11. Roof water from the proposed new work is to be directed to the proposed water tank and being reticulated to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.
12. A structural engineer is to determine the location and depth of the proposed underground tank (72 KL) and certify that it will not adversely affect any building foundation footings or slabs when the tank is empty. Stormwater Management Plan is to be designed in accordance with current Newcastle Development Control Plan 2012 *Section 7.06 Stormwater Management* and the City of Newcastle's *Stormwater and Water Efficiency Technical Manual*. Full details are to be included with documentation for a construction certificate.
13. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012, as indicated on the stormwater management concept plans and stormwater

management plans prepared by Northrop Consulting Engineers Project No. NL171808 Dwg No's. C12DA, C13DA and C20DA Rev C dated 02/11/2017. Full details are to be included in documentation for any Construction Certificate application.

14. The ground floor level of the proposed building is to be as indicated on the stormwater management plan prepared by Northrop Consulting Engineers Project No. NL171808 Dwg No's. C12DA Rev C dated 02/11/2017 and being indicated on the plans for any Construction Certificate application. The ground floor levels are to be certified by a registered Surveyor prior to the placement of the floor slab and a copy of the Surveyor's Certificate is to be forwarded to the Principal Certifying Authority.
15. The whole of the proposed structure below 2.68m AHD is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical fixtures (such as power points, light fittings and switches), storage units or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.
16. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a landscape plan and specification. The plan and specifications is to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
 - a) cross sections through the site where appropriate
 - b) proposed contours or spot levels
 - c) botanical names
 - d) quantities and container size of all proposed trees
 - e) shrubs and ground cover
 - f) details of proposed soil preparation
 - g) mulching and staking
 - h) treatment of external surfaces and retaining walls where proposed
 - i) drainage, location of taps and
 - j) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

17. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 *Hunter Water Act 1991*) is to be included in documentation for a Construction Certificate application.
18. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established

vegetative cover.

19. The proposed lighting including car park lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 *Control of the obtrusive effects of outdoor lighting*. Full details are to be included in the documentation for a Construction Certificate application.
20. Working drawings and specifications of the proposed building are to be submitted to Subsidence Advisory NSW for approval prior to an application for a Construction Certificate and any requirements of Subsidence Advisory NSW are to be included in the documentation for a Construction Certificate application.
21. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
 - a) Constructed in accordance with City of Newcastle's A1300 - Driveway Crossings Standard Design Details.
 - b) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance
 - d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve
 - e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the *Roads Act 1993* has been granted by City of Newcastle. The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of any Construction Certificate.

22. A design verification statement from a qualified designer shall be submitted to the Certifying Authority. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

Full details are to be included in the documentation for the first Construction Certificate for the residential flat development.

Note: '*Qualified Designer*' means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with Clause 143A of the *Environmental Planning and Assessment Regulation 2000*.

23. The Developer designing and constructing the following works in connection with the proposed development within the Merewether Street and Centenary Road public road reserve, adjacent to the site, at no cost to City of Newcastle and in accordance with City of Newcastle's guidelines and design specifications:
 - a. Road widening of 500mm along Centenary Road frontage of the site (note: land to be dedicated as Road Reserve'

- b. Construction of new footpath, kerb and gutter, street trees and verge area along Centenary Road and Merewether Street;
- c. New driveway crossing and removal of redundant driveways;
- d. Associated drainage works;
- e. Changes to any parking signs or request for any loading zones (note: Newcastle City Traffic Committee approval will be required).

Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to City of Newcastle for approval pursuant to Section 138 of the *Roads Act 1993*. The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of any Construction Certificate.

- 24. A 0.5m wide portion of the site along the entire frontage of Centenary Drive is required for road widening purposes. A suitable survey plan providing for the future dedication (dedication to be done prior to any Occupation Certificate) is to be submitted to City of Newcastle with the Public Domain Plan (Section 138 Application) prior to the issue of any construction certificate. All associated survey and legal work are to be undertaken by the Developer at the Developers expense.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

- 25. An assessment of the likelihood of the presence of any Aboriginal sites in relation to the proposed development area is to be undertaken to comply with the requirements of the *National Parks and Wildlife Act 1974* and the significance and requirements for the protection of any sites being incorporated into the documentation for a Construction Certificate application. Written confirmation that the National Parks and Wildlife Service's requirements have been met shall be submitted to City of Newcastle prior to engineering works commencing. Any submitted archaeological study shall be accompanied by a letter from the appropriate Local Aboriginal Land City of Newcastle stating that they are satisfied with the study process and that appropriate arrangements are in place for continued consultation during development of the site.

Note: It is illegal to knowingly damage, deface or destroy a 'relic' or Aboriginal Place without the Director's prior written consent.

- 26. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
 - a) A waste container of at least one cubic metre capacity shall be provided, maintained and immediately serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and
 - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

27. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
28. An application is to be made to and approved by City of Newcastle for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and any relevant approved industry code of practice. Notice of intention of commencement must be given to SafeWork NSW.
29. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
30. All building work must be carried out in accordance with the provisions of the National Construction Code.
31. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on City of Newcastle reserves including the road reserve is not permitted.
32. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:
 - a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
 - b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
 - c) When the roof has been completed, confirming that the building does not exceed the approved levels.
33. Prior to commencement of site works the developer is to submit to City of Newcastle for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

34. The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.
35. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
36. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to City of Newcastle requirements, in accordance with Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012.
37. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs.
38. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

39. City of Newcastle's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by City of Newcastle for the duration of demolition and construction work.

Note: City of Newcastle's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Counter.

40. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's 'Waste Classification Guidelines Part 1: Classifying Waste'.
41. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
42. Remediation being carried out in accordance with the submitted Remediation Action Plan prepared by Douglas Partners dated 15 January 2018 and the Addendum to the Remediation Action Plan prepared by Arcadis dated 21 January 2019.
43. Any soils identified as exceeding the validation criteria during the remediation works (as specified by the Remediation Action Plan prepared by Douglas Partners dated 15 January 2018 and the Addendum to the Remediation Action Plan prepared by Arcadis dated 21 January 2019) are to be removed offsite.
44. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions

of the Resource Recovery Order and Exemption. This documentation must be provided to City of Newcastle officers or the Principal Certifying Authority on request.

45. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
46. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
47. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
 - a) Restricting topsoil removal
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
 - c) Alter or cease construction work during periods of high wind and
 - d) Erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
48. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to City of Newcastle by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

49. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to City of Newcastle within fourteen days of receipt.
50. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
51. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
52. Any redundant existing vehicular crossing is to be removed at no cost to City of Newcastle. The road reserve and kerb being restored to, City of Newcastle's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.
53. The water management measures as indicated on the submitted plans and Statement

of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.

54. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
55. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Muller Consulting, dated March 2019. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and City of Newcastle prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

56. The portion of the land required for road widening being 0.5m wide along the entire frontage of Centenary Drive is to be transferred to City of Newcastle for dedication as road reserve. A detailed survey plan is to be submitted with an accompanying Subdivision Certificate Application for City of Newcastle certification and such plan is to be registered with the NSW Government Land & Property Information prior to issue of any occupation certificate.

Note: All associated survey and legal work is to be undertaken by the Developer at the Developers expense.

57. An application is to be made for a Subdivision Certificate. The application is to be supported by a survey plan of subdivision, the Administration Sheet and a Section 50 Certificate from the Hunter Water Corporation.
58. At the completion of remediation and prior to an Occupation Certificate being issued, the following documentation is to be submitted to City of Newcastle's Environmental Services Unit:
 - a. A validation report (prepared in accordance with the requirements of the approved RAP) by a suitably qualified consultant in accordance with the relevant NSW Environment Protection Authority Guidelines.
 - b. A 'part A' Site Audit Statement with the purpose of reviewing the completed remediation works and validation report to determine the suitability of the land for the proposed landuse.

59. A long-term Site Management Plan is to be prepared and approved by the Site Auditor to address remaining site contamination risks and to be provided to the Principle Certifying Authority and City of Newcastle prior to the issuing of Occupation Certificate
60. A design verification statement from a qualified designer shall be submitted to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

Note: 'Qualified Designer' means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with

Clauses 154A of the *Environmental Planning and Assessment Regulation 2000*.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

61. The hours of operation for the commercial tenancies is detailed below:

DAY	START	FINISH
Monday	7:00am	7:00pm
Tuesday	7:00am	7:00pm
Wednesday	7:00am	7:00pm
Thursday	7:00am	7:00pm
Friday	7:00am	7:00pm
Saturday	7:00am	7:00pm
Sunday	7:00am	7:00pm

unless a separate application to vary the hours of operation or trading has been submitted to and approved by City of Newcastle.

62. Waste management (recyclable and non-recyclable) is to be collected from the carpark refuse storage areas, as identified on the approved plans, serviced from Centenary Road and returned immediately to the refuse storage areas. Under no circumstances are garbage bins to be presented to Centenary Road for kerbside collection or remain at kerbside after collection.
63. All general goods deliveries to the premises and waste collection from the premises only being undertaken between the hours of 7:00am and 6:00pm.
64. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997*.

Should City of Newcastle consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.

65. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should City of Newcastle consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

66. The premise/s is/are allocated the following street address/es in accordance with City

CITY OF NEWCASTLE

of Newcastle's House Numbering Policy and the Surveying and Spatial Regulation

Unit on plan	City of Newcastle Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
Commercial (south)	1/5	Merewether	Street	Newcastle
Commercial (north)	2/5	Merewether	Street	Newcastle
3.01	304/5	Merewether	Street	Newcastle
3.02	305/5	Merewether	Street	Newcastle
3.03	306/5	Merewether	Street	Newcastle
3.04	307/5	Merewether	Street	Newcastle
3.05	308/5	Merewether	Street	Newcastle
3.06	301/5	Merewether	Street	Newcastle
3.07	302/5	Merewether	Street	Newcastle
3.08	303/5	Merewether	Street	Newcastle
4.01	404/5	Merewether	Street	Newcastle
4.02	405/5	Merewether	Street	Newcastle
4.03	406/5	Merewether	Street	Newcastle
4.04	407/5	Merewether	Street	Newcastle
4.05	408/5	Merewether	Street	Newcastle
4.06	401/5	Merewether	Street	Newcastle
4.07	402/5	Merewether	Street	Newcastle
4.08	403/5	Merewether	Street	Newcastle
5.01	504/5	Merewether	Street	Newcastle
5.02	505/5	Merewether	Street	Newcastle
5.03	506/5	Merewether	Street	Newcastle
5.04	507/5	Merewether	Street	Newcastle
5.05	508/5	Merewether	Street	Newcastle
5.06	501/5	Merewether	Street	Newcastle
5.07	502/5	Merewether	Street	Newcastle
5.08	503/5	Merewether	Street	Newcastle
6.01	604/5	Merewether	Street	Newcastle
6.02	605/5	Merewether	Street	Newcastle
6.03	606/5	Merewether	Street	Newcastle
6.04	607/5	Merewether	Street	Newcastle
6.05	608/5	Merewether	Street	Newcastle
6.06	601/5	Merewether	Street	Newcastle
6.07	602/5	Merewether	Street	Newcastle
6.08	603/5	Merewether	Street	Newcastle
7.01	704/5	Merewether	Street	Newcastle
7.02	705/5	Merewether	Street	Newcastle
7.03	706/5	Merewether	Street	Newcastle
7.04	707/5	Merewether	Street	Newcastle

7.05	708/5	Merewether	Street	Newcastle
7.06	701/5	Merewether	Street	Newcastle
7.07	702/5	Merewether	Street	Newcastle
7.08	703/5	Merewether	Street	Newcastle
8.01	804/5	Merewether	Street	Newcastle
8.02	805/5	Merewether	Street	Newcastle
8.03	806/5	Merewether	Street	Newcastle
8.04	807/5	Merewether	Street	Newcastle
8.05	808/5	Merewether	Street	Newcastle
8.06	801/5	Merewether	Street	Newcastle
8.07	802/5	Merewether	Street	Newcastle
8.08	803/5	Merewether	Street	Newcastle

ADVISORY MATTERS

- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and City of Newcastle is to be notified of the appointment; and
 - c) City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000*.
- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* is to be submitted to City of Newcastle and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or

prosecution.

- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (*'on-the-spot fine'*) or prosecution.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The proposed height of buildings and floor space ratio development standard variations, made under Clause 4.6 of the Newcastle Local Environmental Plan 2012, have been considered and accepted.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of City of Newcastle's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.

Item 11 Attachment C

THE CITY OF NEWCASTLE
Report to Development Applications Committee Meeting on
20 August 2019



PROCESSING CHRONOLOGY

DA2017/01382 – 1 Merewether Street Newcastle

- 19 July 2017 - First visit to UDCG (pre lodgement)
- 20 September 2017 - Second visit to UDCG (pre lodgement)
- 03 November 2017 - Application lodged
- 14 November 2017 - Public notification
- 11 December 2017 - Third visit to UDCG

December 2017 to July 2019 - The application was placed on hold as the applicant was considering options on the adjacent rail corridor land. This land required a planning proposal to rezone the surplus rail corridor between Worth Place and Watt Street Newcastle. After the rezoning occurred, an alternate proposal was lodged to include the subject site and the surplus rail corridor land, however this application is was withdrawn.

Additional information on contamination was also requested during this period.

The applicant has sought to proceed toward the determination of this application