

**JOINT REGIONAL PLANNING PANEL**  
**(Hunter and Central Coast Region)**

<b>JRPP No.</b>	2015HCC029 DA
<b>DA No.</b>	DA 2015/10299
<b>Proposal</b>	An application has been received seeking consent for partial demolition of the existing commercial building and the erection of a residential flat building comprising of 119 apartments with 129 car parking spaces and 30 co-shared parking spaces at 28 Bolton Street, Newcastle.
<b>Property</b>	28 Bolton Street, Newcastle (Lot 1 DP 1036640)
<b>Applicant</b>	EG Fund Management Pty Ltd
<b>Number of Submissions</b>	Eight (8)
<b>Report by</b>	Newcastle City Council
<b>Recommendation</b>	Approval

## EXECUTIVE SUMMARY

An application has been received seeking consent for partial demolition of the existing commercial building and the erection of a residential flat building comprising of 119 apartments with 129 car parking spaces and 30 co-shared parking spaces at 28 Bolton Street, Newcastle

The Statement of Environmental Effects prepared by Hamptons Property Services describes the original proposal as follows:

*'The site, which held the original headquarters of the Newcastle Herald and continues to operate from this location, is a four storey, heritage listed building, under the Newcastle Local Environmental Plan 2012 (the LEP). It is proposed to replace the existing commercial tenancy, due to the completion of the existing lease arrangements and provide space to be leased to new commercial tenants. These floors (Basement 1, 2, Ground and First Floors) will be provided with a new lift and amenities; whilst detailed refurbishment works will be undertaken on a tenancy by tenancy basis as these are secured, under separate development applications.*

*A small proportion of residential accommodation is proposed at Basement Level 1, Ground Floor and from Levels 1-7 (total 9 floors). This will be a combination of one, two and three bedroom apartments. The residential component of the building is set to the rear (western) side of the existing commercial component, to ensure that the built form and design response is sympathetic, yet complimentary to, the heritage characteristics of the site.*

*Together, the building will contain 119 apartments of one, two and three bedroom configuration. Basement car parking will accommodate 129 residential car spaces, and 30 spaces, co-shared between commercial and visitor parking'.*

The proposal is referred to the Joint Regional Planning Panel as the development has a capital investment value of more than \$20million. The application submitted to Council nominates the value of the project as \$40.9 million pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005.

## RECOMMENDATION

- 1. That the Hunter & Central Coast Joint Regional Planning Panel note and support the clause 4.6 variation to clause 4.3 (height of building) to enable the proposed development to be approved in its current form; and**
- 2. That the Hunter & Central Coast Joint Regional Planning Panel approve DA 2015/10299 for partial demolition of the existing commercial building and construction of a residential flat building comprising of eight storey (119 units) plus three level basement car parking (129 parking bays including 30 co-shared spaces) be approved subject to the nominated draft conditions of consent as detailed in Appendix D.**

## 1. BACKGROUND

The subject site comprises the following properties:

- 28 Bolton Street, Newcastle.

The property includes a local Heritage Item (Newcastle Herald Building) and is located within a heritage conservation area. The land is zoned B4 Mixed under the provisions of *Newcastle Local Environmental Plan (NLEP) 2012*. Mixed use development, comprising a residential flat building and commercial premises is permitted in this zone.

The subject site consists of a generally rectangular shaped lot with a further rectangular protrusion to Bolton Street. The site is bound by three street frontages being Bolton, King and Newcomen Streets. The area of the site is approximately 3,025 sqm.

The existing building is a four storey structure that is heritage listed pursuant to Schedule 5 of NLEP 2012. It is proposed to replace the existing commercial tenancy, due to the expiry of the current lease arrangements and provide space to be leased in the future to new commercial tenants. These floors (Basement 1, 2, ground and first floors) will be refurbished with a new lift and amenities under future development applications.

The location is the interface between three immediate zones, being B4 Mixed Use; R3 Medium Density and R4 High Density. Within close vicinity to the site there is also land zoned recreational and special purpose. Consequently, the surrounding area encompasses a varying and complex range of land uses.

## 2. PROPOSAL

The original proposal sought consent for a residential flat building comprising of 120 apartments with 131 car parking spaces and 30 co-shared parking spaces.

The applicant has provided the following statement:

*'The site, which held the original headquarters of the Newcastle Herald, and continues to operate from this location, is a four storey, heritage listed building, under the Newcastle Local Environmental Plan 2012 (the LEP). It is proposed to replace the existing commercial tenancy, due to the completion of the existing lease arrangements and provide space to be leased to new commercial tenants. These floors (Basement 1, 2, Ground and First Floors) will be provided with a new lift and amenities; whilst detailed refurbishment works will be undertaken on a tenancy by tenancy basis as these are secured, under separate development applications.*

*A small proportion of residential accommodation is proposed at Basement Level 1, Ground Floor and from Levels 1-7 (total 9 floors). This will be a combination of one, two and three bedroom apartments. The residential component of the building is set to the rear (western) side of the existing commercial component, to ensure that the built form and design response is sympathetic, yet complimentary to, the heritage characteristics of the site.*

*Together, the building will contain 120 apartments of one, two and three bedroom configuration. Basement car parking will accommodate 131 residential car spaces, and 30 spaces, co-shared between commercial and visitor parking'.*

The plans were subsequently amended in response to the concerns raised by Council's Urban Design Consultative Group and to address issues arising from public submissions. In summary, the applicant made the following changes to the plans:

- a reduction in floor space (3.97:1 – 3.95:1);
- increased building setbacks to the eastern site boundary (adjoining 32-38 Bolton Street and 42 King Street), resulting in the loss of one apartment (now 120 apartments in total);
- improved privacy treatment and landscape screening to the northern property boundary at the interface with the City Extra apartment building;
- relocation of common open space area to improve usability and reduce potential adverse privacy impacts;
- additional skylights for units on Level 7 to increase natural light and ventilation;
- introduction of a communal car wash bay within the basement;
- changes to the external building materials so that the proposed building design more appropriately responds to the character of the Newcastle CBD.

The amended proposal was re-notified in accordance with Council's notification policy and eight (8) submissions were received in response. The plans were amended again after receiving additional comments back from Council's Urban Design Consultative Group (UDCG). The amended plans have further reduced the number of units to 119 and reduced the number of car parking spaces to 159. The amended plans were not re-notified given that most of the changes are internally based to improve residential amenity for future tenants.

The full development plans, as amended, are provided as an attachment to this report in **Appendix A**.

### **3. PLANNING ASSESSMENT**

The following planning assessment has been undertaken in accordance with the requirements of Section 79C of the Environmental Planning & Assessment Act 1979 (The Act). The relevant matters for consideration are reproduced below:

#### Section 79C Elevation

##### *(1) Matters for consideration — general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

##### *(a) the provisions of:*

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- (i) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (ii) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

##### *(a) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

##### *(b) the suitability of the site for the development,*

##### *(c) any submissions made in accordance with this Act or the regulations,*

##### *(d) the public interest.*

### **3.1 Regional Environmental Plans**

There is no Regional Environmental Plans (REP's) applicable in the assessment of this application.

### **3.2 State Environmental Planning Policies**

Consistent with the requirements of the Environmental Planning and Assessment Act 1979 (the Act), the proposal has been assessed against the following State Environmental Planning Policies (SEPP's), which were identified as relevant to the proposed development:

- SEPP (Major Development) 2005
- SEPP No 55 Remediation of Land
- SEPP (Urban Renewal) 2010
- SEPP No 71 Coastal Protection
- SEPP (BASIX) 2004

#### SEPP (Major Development) 2005

The aims of this Policy are to:

- (c) *to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State,*
- (d) *to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes.*

Pursuant to the requirements of this SEPP, the application is referred to the Hunter & central Coast Joint Regional Planning Panel as the development has a capital investment value of more than \$20million. The application submitted to Council nominates the capital investment value of the project at \$40.9million.

#### SEPP No 55 Remediation of land

The proposed development is subject to the provisions of SEPP 55 and, accordingly, the development requires assessment under this Policy.

Council's Regulatory Services Unit requested additional information in accordance with this Policy. The officer indicated that:

*'A contamination investigation has identified the site as being suitable for the proposed development however areas of the site required further investigation, remediation and validation following demolition. A historic fuel tank, potential ACM in fill and coal tar impacted asphalt were among the identified contamination concerns. A remedial action plan has been submitted which outlines these required works in order to ensure the land is made suitable for the proposed landuse. It is noted that a substantial amount of existing soil is proposed to be removed for carpark construction and there will be limited access to existing soil. It is considered that there would be very limited access to soil for future residents'.*

Based on the preliminary contamination report, Council's Regulatory Services Unit is satisfied that the contamination issues identified can be addressed by way of conditions recommended in Appendix D.

### SEPP (Urban Renewal) 2010

State Environmental Planning Policy (Urban Renewal) 2010 was introduced on 15 December 2010 to identify urban renewal precincts and to facilitate the orderly development of sites in and around such precincts in line with applicable state, regional or metropolitan strategies. The Newcastle Urban Renewal Strategy was subsequently prepared to provide a framework and an implementation plan to support growth of Newcastle over a 25 year period. The place based initiatives of relevance to the current concept proposal include the reshaping of Hunter Street as a key destination within the city; the revitalising of Hunter Street Mall; and recognising Newcastle's heritage as an asset. The Hunter Street 'East End' is identified as being appropriate for 'boutique retail, entertainment, leisure and residential' development and as such, the proposed development is in accordance with the aspirations of this policy.

### SEPP No 71 Coastal Protection

State Environmental Planning Policy No. 71 - Coastal Protection applies to the subject land which is identified on Greater Metropolitan Region Map 2 as being in the NSW coastal zone. The aims and objectives of SEPP 71 are to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast by protecting and improving existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore. Clause 8 considerations apply to the development. However, as the subject development is located within a well-established densely urban setting, there are no likely impacts to surrounding coastal environment, especially with regards to maintaining public access, views and amenity.

### SEPP (BASIX) 2004

This SEPP applies to the Newcastle Local Government Area and is applicable to the proposed dwellings. The applicant has submitted a BASIX Certificate demonstrating that the design of the proposed dwellings complies with energy rating requirements. A consent condition will ensure compliance with the submitted Certificate.

### SEPP No 65 Design Quality of Residential Apartment Development

The provisions of SEPP 65 require that the consent authority take into consideration the design quality of the residential flat development when evaluated in accordance with ten design quality principles. These principals being:

- |   |   |
|---|---|
| (i) <i>Context</i>                                | (ii) <i>Landscape</i>                                     |
| (iii) <i>Scale</i>                                | (iv) <i>Amenity</i>                                       |
| (v) <i>Built form</i>                             | (vi) <i>Safety and security</i>                           |
| (vii) <i>Density</i>                              | (viii) <i>Social dimensions and housing affordability</i> |
| (ix) <i>Resource, energy and water efficiency</i> | (x) <i>Aesthetics.</i>                                    |

As required pursuant to clause 50 of the *Environmental Planning and Assessment Regulation 2000*, the application has been supported by a design verification report prepared by a qualified designer (architect) outlining how the development achieves the 10

design quality principles. The application has also been supported by extensive photomontage analysis and other information as required by the Regulations.

SEPP 65 also requires the consent authority to consider the advice of the relevant design review panel concerning the design quality of the residential flat development. The Urban Design Consultative Group (UDCG) is the constituted SEPP 65 panel for The City of Newcastle. The UDCG has reviewed the proposed development against the 10 design quality principles on two occasions. The UDCG is generally supportive of the amended proposal. Their advice and the responses from the proponents architect as discussed in greater detail below under the respective design quality principles.

It is noted that during the assessment of the application, the proponent made a number of important changes to design of the development to address constructive issues raised by the UDCG as part of their consideration. The minutes from the last UDCG meeting have been included in Appendix E. The changes recommended by the UDCG are examined below:

**(i) Context**

The UDCG provided the following advice in relation to context:

*'The site located to the northern side of King Street is partly occupied by a vehicle parking area extending across the slope from Newcomen Street to the western wall of the Newcastle Herald building at the southern extent of the site. The later has dual frontages to King and Bolton Streets. The site abuts two smaller commercial buildings at the corner of King and Bolton Streets – No. 36 Bolton Street and No.32-34 Bolton Street. The site sits within the terraced streetscapes of Newcastle Hill rising from the water front to the high ground occupied by the Cathedral and adjacent prominent buildings including the Newcastle Club located diagonally to the southwest of the site. The City Extra Apartments, a large recent apartment complex is located to the lower southern boundary of the site with some apartments orientated towards the subject site'.*

The proposed development is therefore considered acceptable in relation to the context and the UDCG raised no associated concerns.

**(ii) & (iii) Built Form and Scale**

The UDCG provided the following advice in relation to scale:

*'The proposed development comprises three levels of car parking partially set into the slope with two levels projecting above grade on the northern side opposite the City Extra apartment building. Above this eight levels of apartments extend east west across the terraced site, the lower four levels extending out to the King and Newcomen Street boundaries and the upper levels set back from the street frontages. The northern elevation opposite the City Extra apartment building is proposed as a shear rise of 8 storeys. The two upper floors of this façade intrude within the 12m setback from the northern boundary recommended by the ADG. The development abuts the rear of commercial sites facing Bolton Street including a retained portion of the Newcastle Herald Building located within the development site.*

A series of staggered bays articulate the lower levels fronting King Street and also stepping down Newcomen Street. The heavily modelled lower floors finished in rust red contrast dramatically with the largely glazed upper floors. The northern elevation rising without setback faces the City Extra Apartments across a landscaped roof over the exposed carpark.

The street frontages of the proposed development are considered generally responsive to the existing setting and structures with the scale of development commensurate with the existing pattern of construction on the upper slopes of Newcastle.

Restoration of the Frederick Menkens designed street facade to the Newcastle Herald Building is a positive contribution to the conservation of Newcastle's historic streetscapes and an important element of the development.

The Group questioned the interface of the City Extra Apartment Building and the proposed northern elevation of new apartments and car parking. The proposed landscaping and horizontal metal screening are considered unlikely to fully alleviate the impact of acoustic and light spill upon south facing decks in the City Extra Apartments. However, the setbacks proposed combined with the landscaping and screening between the two buildings will assist in mitigating the impacts

The Group also raised issues with the interface between the proposed building and its neighbours to the east at No.36 and 32-34 Bolton Street. In response, a study was tabled by the architect, "Corner Development Potential" which considered potential development on the sites should they be amalgamated, which the Group noted.

*'While the potential development on the corner site illustrated in this perspective was considered to represent a reasonable approximation of likely future development, there is some potential for a moderately larger development on the corner sites, which may well incorporate rooftop communal landscaped space for residents. While a nil setback for the eastern boundary wall of the proposal abutting the corner sites at levels up to Level 2 or Level 3 is acceptable, the proposed openings in the floors above at minimal setback from the boundary would not satisfy ADG standards and is therefore not supported by the Group. The best development outcome for the levels above Level 3 would be for an acceptable setback to be provided in the eastern façade of the proposed development, and openings set into this façade'.*

The plans have been amended to appropriately address the above issue associated with the Bolton Street property.

In terms of the other issues noted, the applicant has provided the following comments:

*'The UDCDG acknowledges that the proposed screening (timber framing and planting), in conjunction with the proposed building separation distances, are acceptable and increasing these to the north would have no material benefit to the upper two floors of the building, despite non-compliance'.*

It is acknowledged that the scale of the proposed development is larger than the existing adjoining developments. However, the design principle of the SEPP states:

*'In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.'*

As such, the proposed built form is considered acceptable.

#### **(iv) Density**

The UDCG provided the following advice in relation to density:

The design principle states:



*'Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density.'*

The subject site is located within the city centre precinct. Having regard to the density of development envisaged for this precinct under the provisions of NLEP 2012, the density of the proposed development is considered acceptable.

**(v) Resource, energy and water efficiency**

The UDCG made the following comments in relation to resource efficiency:

*'Aspects of environmental sustainability were not discussed at length. The scale and form of the development is considered able to incorporate extensive energy saving provisions. Irrigation of proposed landscape screening to the carpark roof and planting to balconies could largely be met by collecting and recycling rainwater on site.'*

*'The upper, glass-clad element of the development was without any external shading, and would therefore be potentially subject to additional heat loads on the fenestration. While the long faces of the building are orientated primarily north and south, the issue of heat loads on glazing should be carefully considered, rather than relying solely on heat reducing fenestration'.*

The application has been supported by a detailed stormwater management plan which includes water reuse and other energy saving measures within the development. The proposed amended design is considered acceptable in relation to resource, energy and water efficiency.

**(vi) Landscaping**

The UDCG noted the following points:

*'The landscape design remains somewhat schematic and should be expanded both in physical area and detail. At Ground floor level, the design for the proposed northern podium-top landscaping has been revised, but could go further to fulfil its primary functions as a green buffer to the adjacent City Extra apartment block to the north, and as an attractive area for the northern apartments in the subject complex to look down onto. The areas of communal paving should be further reduced in favour of more extensive deep soil landscaping. This should be further augmented by set downs in the slab in areas of the car park where this is practicable'.*

Applicant's Response:

*'The podium top landscaped area has been increased in size, along with additional mature screen planting being proposed to further provide a green buffer to the City Extra Apartment building. The area has been increased by 24% over the original proposal, which will result in a far improved visual outcome for the north-facing apartments of the proposal, particularly with the reduction in hard surfaced paving. The depth of this planter has also been increased to 1m to enable planting of more mature trees. This will enable greater levels of privacy between the subject site and the City Extra building'.*

The landscape plan has been amended to address the above issue and includes additional planting.

The UDCG also raised the following issues in terms of landscaping:

*'At Level 3 there is an opportunity to provide an extensive green roof and landscaped area Apartment A305. This should be maintained by the body corporate. The area could also permit a small north-facing deck for the private use of the occupants of apartments A305'.*

Applicant's Response:

*'A small, private terrace for Unit A305 has been incorporated within the rooftop area of Level 3. The remainder of this space will be landscaped as detailed on DA307. The intention of this space is for a low maintenance planting treatment, to provide a softer visual affect; it will not, however, provide communal open space for the development. This has been designed for private use only, as the residents of the City Extra building objected to the use of this form communal purposes, due to the potential noise implications associated with the use by all residents of the building'.*

Concerns were also raised about the roof level and considered the scheme to be *'inappropriate in its minimal scope, and given the magnificent views available from the area, a more appealing and extensive landscape treatment was warranted. Patches of turf were considered to be an unnecessary maintenance item and do not contribute to the ambience of the area'.*

Applicant's Response:

*'The major change proposed with the revised documentation is to the communal open space area, located on the roof of the building (DA312, Revision 4). It is now intended to provide communal open space across 284m<sup>2</sup> of the roof top level. This space will be accessible from all three lifts cores, therefore ensuring that each core will be provided with direct access to the roof top area. Fire stairs will also be accessible adjacent to lift cores A and C.*

The roof top area has been designed with a series of combined passive and active open spaces. New planting areas are proposed on the northern side, along the central core, as well as to the more active spaces at the eastern and western ends of the communal open space area. In total, 100m<sup>2</sup> of soft landscaping and 184m<sup>2</sup> of hard landscaping is proposed.

It is considered that the revised scheme for the roof level has satisfactorily addressed the concerns raised by UDCG. The proposed roof level provides for residential amenity and social interaction. The amended landscape plan incorporates tree planting that would assist in reducing the perceived bulk of the development and would provide for increased screening for adjoining properties. On balance, it is considered that the proposed landscaping for the site is of a good quality design and would complement the aesthetic quality and amenity for the development and surrounds.

#### **(vii) Amenity**

The UDCG considered the proposed development to be generally acceptable in relation to amenity other than:

*'As noted at the 17/02/2016 UDCG: The interface of decks and south facing windows with the adjacent City Extra Apartments remains the key aspect of amenity identified by the Group. ... The car park should not be ventilated from the car park wall that is proximate to this boundary because of noise, light spill and air quality considerations.*

*The absence of natural light to some of the lift lobbies serving small numbers of apartments was considered acceptable on the basis of the limited size of these lobby areas. However at a minimum, corridors and lift lobbies serving six or more apartments should be provided with natural light and ventilation as per the ADG recommendations (which apply to any corridor).*

*The amenity of the lift lobbies and access corridors to the apartments remains a concern, in respect to the Ground Floor level in particular. While on other levels lifts generally serve a relatively small number of apartments, and it may be acceptable to provide a reduced compliance with the ADG recommended natural light and ventilation provisions, the Ground Level corridor serves some 16 apartments, as well as being the only access to elevators serving all three lifts. Whilst the design of the main entrance lobby is very attractive, the narrow Ground level corridor would be very uninviting. It serves well in excess of the recommended 8 apartments maximum, and could only be considered acceptable if a substantial improvement in provision of access to natural light and ventilation can be provided, as well as some widening of the corridor. To this end, it was suggested that one option would be for a wide, glazed corridor to be opened from the area outside lift B through to the landscaped podium to the north. This would require re-planning of apartment G007'.*

**Applicant's Response:**

*'As suggested, a new corridor is proposed between Apartments G07 and G08. This corridor will be 1.2m wide at its opening to the ground floor common open space area, widening to 2m wide where the corridor between apartments G007 and G008 intersects with the main ground floor courtyard. As a result, Apartments G006, G007 and G008 have been redesigned, including G007 becoming a two storey apartment, on the northern side of the building*

*To facilitate these changes the number of apartments has been reduced by 1, down to 119 in total. In making these changes, the outcome will result in natural light and ventilation being more easily accessible within the corridor areas through the middle section of the building, where it was otherwise considered to be a dark and uninviting space. This will result in a substantial improvement to circulation amenity improvement, given the number of apartments that are serviced through the ground floor lobby. It will also provide a greater sense of openness than was previously proposed'*

The amended design has adequately addressed the issues raised by the UDCG and improved the amenity for future residents. The proposed development is considered to be acceptable in regards to amenity issues.

**(viii) Safety and Security**

Passive surveillance is provided by proposed courtyard and balconies. All entries are clearly defined and secured. Intercom access will be provided to the building entry door. Paths and entry points will be illuminated. The Street boundary is reinforced through landscaping which delineates the public and private domain. The applicant has provided architectural plans of the internal and external lobby entrance which provides for a good area and meeting place for future residents.

**(ix) Social dimensions and housing affordability**

The UDCG provided the following advice in this regard:

*'The proposed ground floor lobby and mail area should function effectively as communal space and encourage social interaction. Similar consideration is recommended for a car wash area located at a point of common movement in the basement.'*

The Group recommended the communal area at the mid-level of the design be replaced by a rooftop communal area preferably linking each of the lift cores and thus enabling cross over and descent to apartments in the event of individual lifts being out of service'.

The amended design has addressed this suggestion with the provision of a communal area on the roof level. The proposed development provides for a mix of residential accommodation which supports social mix and housing affordability.

#### **(x) Aesthetics**

The UDCG provided the following advice in this regard:

*'Whilst the treatment of base, podium and upper levels is supported there are reservations about the rusted steel colour of the base and it would be preferably toned back to a hue more cohesive with sandstone and face brick characteristic of central Newcastle. More importantly, the dark grey glass curtain wall detailing of the upper levels is overly 'heavy' and visually intrusive. Materials that are lighter and more recessive, and with a much smaller proportion of glass, are recommended.'*

*'The specific colours and materials proposed should be provided by way of a sample board'.*

The applicant has submitted an amended material board which has selected a lighter tone to reflect the comments and concerns raised by the UDCG.

The amended proposal is satisfactory with regard to the built form, including street presentation and building envelope. It is considered that the overall design, including colours and materials are consistent with those within City Centre.

In summary, the amended design is considered to be acceptable in relation to the 10 design quality principles of SEPP 65.

#### Apartment Design Guidelines

In addition to consideration of the 10 design quality principles, Clause 30 of the SEPP also requires Council to have regard to the recent publication 'Apartment Design Guide' (ADG) produced by the NSW Planning and Environment. The relevant quantitative guidelines under the ADG are discussed below:

##### *2A Primary Controls:*

The proposed amended development is considered acceptable in relation to above guidelines on building form. The development establishes a scale and form appropriate for its location within the inner city precinct. The proposal provides good presentation to the street which is difficult to achieve given the fall across the site. The proposal also provides for appropriate building depth and bulk, and also affords for a reasonable level of landscaping, given the physical constraints of the land and underground car park.

##### *2B Building Envelopes:*

The proposed amended development is now considered acceptable in relation to building envelopes.

### *2C Building Height:*

The proposed development exceeds the height limit. This issue is discussed under Section Clause 4.3 Height of Buildings and Clause 4.6 Exception to Development Standards above. The height of the proposed building and the variation to the 30 metre development control is considered acceptable and no objections were raised by Council's UDCG (refer to Appendix E).

### *2D Floor Space Ratio:*

The proposed development complies with FSR control specified by the LEP 2012, being 3.95:1. The proposed density is also considered acceptable.

### *2E Building Depth:*

The depth of the building envelope provides a variety of articulating elements to ensure that the massing and bulk of the building is reduced and responsive to the context of the site. The depth of apartments is considered acceptable under the ADG and was supported by the UDCG.

### *2F Building Separation:*

Buildings separation is the distance measured between the building envelopes or buildings. The separation distances between the buildings contribute to the urban form and ensure reasonable and appropriate levels of amenity and open space between buildings having regards to the nature of the development, its character and location within the city centre.

Building separation is required in accordance with Control 2F in terms of the 'City Extra Apartments, 22-24 Newcomen Street, adjacent to the northern boundary of the site. This building is 7 storeys high and located downhill of the subject site. The building was approved in 2002 under DA 02/0483. The south facing units within the building currently enjoy open views across the existing car park on the subject site. The City Extra Apartment building does not comply with separation distances under the current ADG. The ADG provides for provisions for new development adjoining non-complying residential apartments. This enables new development to share the setback requirement with neighbour sites rather than forcing new development to burden fully the additional setback.

The separation distances of the proposed development to this neighbouring property are 18 m. The proposal does not comply with separation distances at the fourth and fifth floors. The ADG requires a separation distance of 18 metres, however only 16 metres has been achieved at these levels. Section 3F of the ADG provides that where there is an existing, non-compliance building with regards to separation distance requirements, the separation of the proposed building must satisfy half of the requirement.

In this case, half of the requirement is 9 metres. The proposed built form is located 9 metres from this frontage and, as such, is considered compliant in this regard. The remaining separation distance of 7 metres is provided from site boundary to the adjoining building. The proposed building envelope therefore satisfies its role in terms of the intentions of the building separation clause, given its compliance with this requirement. This issue was also discussed during the meetings with the UDCG and deemed acceptable under the ADG.

### *2G Street Setbacks:*

Most of the buildings in the vicinity have been built to the boundary along the street frontage. The proposal is consistent with these adjoining building alignments and will reinforce the street edge, while balconies play a significant role in articulating the building facades to soften the appearance to the streetscape provide interest and accentuate important design elements.

The applicant has provided the following response after concerns were raised regarding the streetscape:

*General - 'Main Newcomen and King Street elevation massing comprises visual base, mid-section architectural cladding with recessed and projecting balconies and upper section recessed glazing set back from street. Effective visual height is to top of mid-section cladding. Cladding and balconies are manipulated to provide rhythm to the street by means of alternate recess and projection across the overall façade. This provides a play of light, shade and shadow varying with sun direction and orientation. Elevations to both streets have been broken into narrower panels at mid-section. These step down on Newcomen Street due to steeper site fall, and provide articulation to King Street.*

*Specific - Newcomen Street – falls almost 6.84m across the extent of site frontage from SW corner entrance to North. This is a steep pedestrian slope, which requires breaking ground plane into a series of smaller articulated elements to create interest and variety to building perimeter. These are stepped to respond to street fall, and create discrete visual levels. Corner entrance is recessed and provides legible identification of building entry and threshold from both streets. This is the hub of the building. Building planning has carefully located apartments to outer perimeter of car park to avoid repetitious blank façade. Apartments at basement level connect directly with street at lowest level of site, providing gate, entrance step and garden wall elements. These create engagement with street and offer architectural interest. Recessed glazing behind walls will provide spill of light outwards to street and to canopy soffits. Walls at this level have been selected to provide textural variety. They are also visually layered to provide more detailed smaller scale articulation at ground plane. These walls variously step in and out as with larger cladding elements on upper levels of the building. Textures comprise smooth, vertical and horizontal ribbed pattern panels.*

*Interplay with garden elements enlivens overall street frontage. Landscape to these gardens will green building edges and soften overall composition. Three existing trees will be retained and supplemented by new tree to provide shade and tree cover to pavement edges. Canopy and landscape to entrance area emphasises this arrival point, which also provides views across low-level landscape to street frontages. King Street – falls almost 5.22m across extent of site frontage from SW corner entrance to East. This frontage is longer than Newcomen Street and therefore requires more articulation and consideration. Most of this elevation comprises necessary plant and refuse disposal area, so wall elements are located intentionally to upper part of site, where they are balanced by articulated balcony elements overhead. This elevation incorporates similar devices to Newcomen Street with textured walls, finned metal balustrades, gates and landscape. Upper level section of cladding is viewed at a more oblique angle presenting a rich interplay of angled balconies incorporating recess and projection.*

*Apartments here are also located to outer perimeter of car park to avoid repetitious blank façade. They connect directly with street at lowest level of site, providing gate, entrance step and garden wall elements. They create engagement with street and offer architectural interest. Recessed glazing behind walls will provide spill of light outwards to street and to canopy soffits. Walls at this level have been selected to provide textural variety. They are also visually layered to provide more detailed smaller scale articulation at ground plane. These walls variously step in and out as with larger cladding elements on upper levels of the building. Textures comprise smooth, vertical and horizontal ribbed pattern panels.*

*Interplay with garden elements enlivens overall street frontage. Landscape to these gardens will green building edges and soften overall composition. As there are no significant existing trees on this site perimeter, new trees will be incorporated to provide*

*shade and tree cover to pavement edges. These trees are generally clustered around the service area of the building and vehicular access areas to provide visual cover'.*

Increased setbacks are applied as the building increases in height, to respond to neighbouring buildings and ensure there is less visibility of the upper forms. This ensures the prominence of built form to the street frontage, while also maximizing solar access to neighbouring properties to the south of the site. The articulation and street setbacks on Newcomen and King Street is considered acceptable and provides for good articulation (refer to Appendix C Height Plan and Setback Analysis).

#### *2H Side and Rear Setbacks:*

The side and rear setbacks as proposed are a considered appropriate and reasonable having to the existing streetscape and the adjoining built environment.

#### *Part 3 Siting and Development:*

The proposed development is considered to respond appropriately to the existing streetscape and is compatible with the future desired direction of the area.

#### *3C Public Domain interface:*

The proposal includes a public domain plan which encompasses replacement street tree planting and infrastructure works. Refer to conditions of consent.

#### *3D Communal and Public open space:*

The applicant has submitted amended plans to address the issue of communal open space. The roof level will now provide communal open space (284m<sup>2</sup>). This space will be accessible from all three lifts cores, therefore ensuring that all areas within the building will be provided with direct access to the roof top area.

The applicant has described the communal as being:

*..... 'designed with a series of combined passive and active spaces. New planting areas are proposed on the northern side, along the central core, as well as to the more active spaces at the eastern and western ends of the communal open space area. In total, 100m<sup>2</sup> of soft landscaping and 184m<sup>2</sup> of hard landscaping is proposed'.*

A passive area is provided at the eastern end, which is linked by a walkway which aligns the southern side of the roof space, and connects with the communal space at the western end of the roof. It is considered that the proposed passive open space, as well as more formalised areas which may be used for entertaining purposes by the future residents is a positive initiative of this development, and for apartment living generally.

The wall aligning the central walkway of this space will be enclosed with a screen on the southern side to ensure that southerly winds do not compromise the amenity of this space.

As stated above, the planting area has also been increased to 100m<sup>2</sup>, which will soften the visual appearance and provide a more inviting communal space in association with this proposal. It is considered that amended plans have adequately addressed the issue of communal open space for future residents.

#### *3E Deep Soil Zones:*

The area available for deep soil planting is not achieved given the basement car parking structure. The applicant has increased the amount of area available for landscaping from 164m<sup>2</sup> to 207m<sup>2</sup>. The proposal does provide an appropriate area for deep soil planting on the northern side of the building. The applicant is also intending to plant a number of street

trees along King Street. The proposal is therefore considered to be acceptable for the above control.

### *3F Visual Privacy:*

Adequate separation has been provided between the subject building and those upon adjacent sites. Recessed balconies and screens where required will provide occupants with appropriate levels of visual privacy and panel fences and planting assist ground level screening to courtyards.

The issue of visual privacy was raised as a significant concern during the public notification period. The original proposal included a large blank wall for the car park on the northern boundary to the adjoining City Extra Apartments. The applicant is now proposing a screen along this alignment which will consist of timber slates (refer boundary elevation and fencing details drawings DA320 and DA321 Appendix A). It is considered that the provision of the screen, rather than the blank concrete wall is a better design and amenity outcome. The screen will not inhibit entirely all noise or visual impacts, but will provide a reasonable and appropriate level mitigation having regards to the nature and location of the development site with this city centre.

The second significant issue is the construction of the northern wall on the boundary directly adjacent to the City Extra Apartments. Two units within the City Extra building units were approved with two bedroom windows directly on their southern boundary (adjoining the subject site). The above guidelines specify that 'no separation is required between blank walls'.

The City Extra Apartment building has a constructed wall directly on the boundary to level 4. The proposed development will align with the existing wall to this height.

At the present time, a wall is constructed to the boundary of the City Extra building, as high as Level 4. Therefore, the additional structure proposed will align with the height of Levels 5, 6 and 7 of the City Extra building.

The window openings along the boundary of the adjoining City Extra building are not required to remain as openings as the enclosing rooms are provided with an alternative source of light, from the western side of the building. The applicant has also provided preliminary Building Code of Australia (BCA) advice which clearly indicates:

*'Under the BCA and Part 4A of the EP&A Act you have no obligations regarding the compliance of the neighbour's windows. The BCA is structured so that each owner must manage their own compliance as a function of relativity to the boundary on the basis that anything could be built on the boundary in the future and compliance still maintained.'*

*I note that the windows on the boundary in the City Extra Building have been protected with drenchers for fire-safety compliance and do not appear to be relied on for light and ventilation compliance. Hence it appears that compliance has been achieved in the City Extra Building irrespective of what is built on your site'.*

Whilst it is acknowledged that the construction of the wall on the boundary will have some negative impact on the existing units 603 and 703 of the City Extra Apartments, the proposed development is providing a consistent streetscape along Newcomen Street. The affected apartments 603 and 703 will have reasonable (and BCA conforming levels of) access to natural light and ventilation from the balcony and the rear window.

### *3G Pedestrian Access and Entries:*

A readily identifiable and accessible entry is provided to the building from the street frontage which enables clear orientation and accessibility by visitors.



### *3H Vehicle Access:*

The vehicular entry point provides adequate separation from the pedestrian entry. The width of the driveway crossing is considered adequate and functional to cater for vehicle movement.

### *3J Bicycle and Car Parking:*

The traffic report compiled by Council's Senior Traffic Engineer advises that compliance is achieved with the necessary NDCP 2012 requirements regarding car parking rates.

In terms of traffic generation and the impact of the development on the street network, the proposal will have its greatest effect during the morning and afternoon peak periods. This has been assessed applying a rate of 0.4 vehicles per hour per apartment. The application of this would result in 50 vehicles generation two-way movements in peak hour. The reduction in commercial space would generate between 5 and 20 vehicles per hour during peak period.

The conclusions of the traffic report are therefore that:

*The increase in traffic generation would therefore be some 30 to 45 vehicles per our two-way during weekday morning and afternoon peak hours. This is a low generation, equivalent to an average of only one vehicle every 1 ½ to 2 minutes at peak times.*

*Such a low generation would not have noticeable effects on the operation of the surrounding road network. Surrounding intersections, including the intersections of King Street with Bolton Street and Newcomen Street, would continue to operate at their existing good levels of service, with similar average delays per vehicle.*

*The road network will therefore be able to cater for the additional traffic from the proposed development.*

## *Part 4 Designing the Building:*

### *4A Solar and Daylight Access:*

The ADG indicates that it is desirable for 70% of units receive a minimum of three hours of sunlight in mid-winter. In dense urban areas, two hours may be acceptable.

All units in the proposed development have good solar access and would achieve a reasonable level of solar access. The applicant have provided a breakdown of individual units and demonstrated that at least 70% of units will receive more than 2 hours of winter solar access on 21 June.

### *4B Natural Ventilation:*

The ADG indicates that it is desirable that 60% of residential units are naturally cross ventilated and 25% of kitchens should have access to natural ventilation. The ADG indicates that corner apartments and double aspects apartments achieve the best cross ventilation.

On this basis some 60% of the proposed development's units have good cross-ventilation. Of the apartments that have a single aspect, the relatively shallow apartment depth should still maintain acceptable natural ventilation.

#### *4C Ceiling Height:*

All rooms within the proposal are designed with a floor to floor height of 3.1 metres, therefore enabling a 400mm cavity for services.

#### *4D Apartment Size and Layout*

The ADG outlines desirable unit depths to promote improved solar access and cross ventilation. In this regard the ADG nominates a maximum depth of 8m for single aspect apartments and 15m for cross-over apartments. All apartments comply with these depths.

#### *4E Private Open Space and Balconies:*

The ADG indicates that balconies should be a minimum depth of 2m. The balconies of all units are at least 2m deep in part.

#### *4F Common Circulation and Spaces:*

The proposed configuration of apartments is such that the maximum number of apartments accessible from any single corridor is less than 8. The internal nature of these corridors, however, is limited in terms of access to daylight and natural ventilation. This is primarily due to the width of the site and the required orientation of the apartments.

#### *4H Acoustic Privacy:*

The proposed development is considered acceptable in relation to the guidelines of the ADG and in general terms is considered a good residential flat development design.

#### *4J Noise and Pollution:*

The proposed development is considered acceptable in relation to the guidelines of the ADG and in general terms is considered a good residential flat development design.

### **3.3 Local Environmental Plan 2012**

The subject site is zoned *B4 Mixed Use* under the provisions of NLEP 2012. The objectives of this zone are:

- *To provide a mixture of compatible land uses.*
- *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.*
- *To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.*

The proposed development is defined as a residential flat building which is a permissible use in accordance with the land use tables for the zone with development consent.

It is considered that the proposed development is generally consistent with the zone objectives and is compatible with the future character of the area.

#### Clause 4.3 - Height of Buildings

The site has a maximum height limit of 30 metres. The proposed development exceeds the height limit by 2020mm metres in places. The non-compliances are located at the eastern end of the site on Level 6 and 7, along with a minor non-compliance on Level 7 on the northern façade.

There are also protrusions through the height encompassing building services and lift overruns. The applicant has provided a height plan analysis which details the breach (Appendix C).

The applicant has lodged a clause 4.6 Exception to development standard - see below.

#### Clause 4.4 - Floor Space Ratio (FSR)

The site has a maximum FSR limit of 0.4:1. The application proposes a maximum FSR of approximately 3.95:1 and complies with this requirement.

#### Clause 4.6 - Exception to development standard

The objectives of clause 4.3 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.*

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 is not expressly excluded from the operation of this clause; and
2. The applicant has prepared a written request seeking support to vary the development standard and demonstrating that:
  - a) compliance with the development standard is unnecessary in the circumstances of the case, and
  - b) there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has argued that adherence to the 30 metre high limit is unnecessary for the following reasons:

*'The non-compliances are predominantly to ensure uniformity in built form, as presented to the street, while remaining generally consistent with the planning standards that are intended for this location, as part of a CBD form.*

*Therefore, despite minor non-compliance, the proposal does not compromise the hierarchy of the centre. In terms of solar access, the areas of building non-compliance do not result in adverse enjoyment to properties on the southern side of King Street. Therefore, the amenity of the properties opposite the area of non-compliance is not affected.*

*Therefore, as the impact of non-compliance is limited, and compliance would result in an architectural form that would create anomaly in the proposal's presentation to the streetscapes of both King and Bolton Streets, it is considered that compliance is unnecessary in this particular case. If there was impact as a result of these non-compliances, then implementation of the standard would be necessary. However, the limited nature of non-compliance is such that it has no effect. Therefore, compliance is unnecessary'.*

An assessment of the request has been undertaken and it is considered that the variation to the height standard is reasonable in this instance having regard to the criteria under Clause 4.6; the zone objectives; the objectives of clause 4.3 and as assessment of the likely impacts of the proposal.

It is considered that the applicants have adequately addressed the objectives of clause 4.6.

A merit assessment of the proposed development confirms that the likely resultant impacts in terms of privacy, overshadowing, streetscape, character of the locality, bulk scale and context are acceptable.

Lastly, the issue of the proposed height variation was also examined and discussed at length by the Urban Design Consultative Group. The group raised no objections and considered it a minor variation.

Accordingly, it is considered that the proposed variation to the height development standard is acceptable in this instance as it:

- It adequately addresses the matters required to be demonstrated by clause 4.6(3); and
- The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the overarching objectives for development within the zone in which the development is proposed to be carried out.

#### Clause 5.5 Development within the Coastal Zone

This clause requires the consent authority to consider certain matters and be satisfied that the proposed development will protect the coastal environment and public access to the coast. The proposed development complies with this clause and does not restrict public access. The proposed development will also not impact on amenity with respect to overshadowing of the foreshore, or loss of views from a public place to the coastal foreshore; will not impact on biodiversity and ecosystems, including water quality; and will not have adverse cumulative aspects on the coastal catchment.

#### Clause 5.9 Preservation of trees or vegetation

The proposal includes the removal of two street trees within the public domain and six trees from within the site. The trees located within the property boundary are not considered to be significant trees. As discussed in the assessment the removal is considered to be acceptable subject to a number of conditions to reflect replacement street tree planting (refer to Section 5.03 Tree Management).

#### Clause 5.10 Heritage provisions

The subject site is located within the Newcastle City Centre Conservation area and is listed as a heritage item on the NLEP 2012, Schedule 5 Environmental heritage, Part 1 Heritage items (identified as Lot 1, DP 1036640).

A Heritage Impact Statement (HIS), prepared by NBRS and Partners accompanied the development application, assessed the proposal's impact on the conservation area and on the adjoining heritage item.

*'The proposed works will conserve the portion of the heritage listed Newcastle Herald Building that dates to 1929 and has considerable heritage significance. The proposal works include undertaking façade conservation works to the Bolton Street elevation. This will have a positive heritage impact on the heritage item. In addition, the proposal to reinstate original elements concealed through later works, such as the terrazzo flooring in the main entry foyer of the Newcastle Herald Building will have a positive heritage impact on the subject site'.*

*Suggestion was made by the UDCDG that 'restoration of the Frederick Menkens' façade would 'provide a positive contribution to the conservation of Newcastle's historic streetscape'.*

In response to this the applicant heritage consultant (NBRS + Partners) have provided the following recommendations:

- *undertaking façade conservation works; and*
- *reinstating original elements within the building, including the terrazzo flooring in the main foyer, which will complement the façade works, upon entry to the building itself*

In particular the assessment states that:

*Elements of the Newcastle Herald Building that have high significance are the Bolton Street façade, its main entry and original finishes within the ground floor vestibule. ... It is proposed that these be retained, conserved and recovered as part of the proposed development. This will have a positive heritage impact on the significance of the place'*

The HIS was reviewed by Council's Heritage Officer and deemed acceptable subject to the imposition of a number of conditions of consent that are included in the draft conditions as outlined in Appendix D.

#### Clause 6.1 Acid Sulphate Soils

The site is located on class 5 land and approximately 12m or more above AHD and as such acid sulfate soils are not considered to be likely to be encountered during redevelopment of the site. The applicant has engaged a consultant to provide an acid sulfate soils management plan in case acid sulfate soils are encountered during excavation.

#### Clause 7.4 Building Separation

This clause requires that a building must be erected so that the distance "to any other building is not less than 24 metres at 45 metres or higher above ground". All buildings are less than 45m in height and therefore this clause does not apply.

### **3.4 Draft Environmental Planning Instrument**

There are no draft environmental planning instruments relevant for the assessment of this application.

### **3.5 Development Control Plans**

The following sections of the Newcastle Development Control Plan apply to this application:

- Section 3.05 Residential Flat Buildings
- Section 4.04 Safety and Security
- Section 4.05 Social Impacts
- Section 5.01 Soil Management
- Section 5.02 Land Contamination
- Section 5.03 Tree Management
- Sections 5.04 & 5.06 Aboriginal Heritage and Archaeological Management
- Section 6.01.03 Newcastle City Centre - General Controls
- Section 7.01 Building Design Criteria

- Section 7.02 Landscape Open Space and Visual Amenity
- Section 7.03 Traffic, Parking and Access and Section 7.04 Movement Networks
- Section 7.06 Stormwater
- Section 7.08 Waste Management
- Section 8.00 Public Participation.

#### Section 3.05 Residential Flat Buildings

The proposal is considered to be acceptable.

#### Section 4.04 Safety and Security

The proposed development provides for passive surveillance of the street and communal areas. The internal driveway design should ensure low speed traffic movements to facilitate pedestrian safety. As such, the proposed development is considered acceptable in relation to safety and security.

#### Section 4.05 Social Impacts

The proposed development provides for a mix of residential accommodation which supports social mix and housing affordability.

#### Section 5.01 Soil Management

The applicant's design has effectively stepped the overall development site so as to ensure that minimal retaining walls are required to the site boundaries. The required erosion and sediment control details have been provided and will be a condition of consent.

#### Section 5.02 Land Contamination

The applicant submitted a Phase 1 and Phase 2 Environmental Site Assessment. This was reviewed by Council's Compliance Services Unit and is discussed in detail under State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55) section of this report.

#### Section 5.03 Tree Management

The application was supported by an Arborist Report which examined existing vegetation on the site in accordance with this section. The proposed development is considered acceptable in relation to the NDCP guidelines on tree management.

A copy of the amended Landscape Concept Plan has been included in Appendix A.

#### Sections 5.04 & 5.06 Aboriginal Heritage and Archaeological Management

A search of the Aboriginal Heritage Information Management System (AHIMS) - NSW Department of Environment and Heritage, was carried out and no Aboriginal sites or places were identified. There was no physical evidence on site, such as rocky outcrops or the like, to suggest Aboriginal relics.

The proposed development is considered acceptable in relation to the relevant provisions of the Newcastle DCP 2012.

#### Section 6.01.03 Newcastle City Centre - General Controls

The area is identified as being located within the East End and is characterised by the following statement:

*'East End centres on Hunter Street Mall and the terminus of Hunter Street at Pacific Park. The precinct is characterised by hilly topography and a mix of uses focusing on the retail spine of Hunter Street Mall. The subdivision is more finely grained than other areas of the*

*city centre. A mix of heritage listed and historic buildings give this part of Newcastle a unique character and offer interesting and eclectic streetscapes'.*

Most of the issues around built form including building setbacks, building separation, and streetscape have been previously discussed under SEPP 65 and Apartment Design Guidelines.

A1. Street wall height - The proposal has a street wall height of approximately 16 metres to King Street and Newcomen Street with a couple of breaches. The relatively minor breaches to the 16m street wall height are considered acceptable in terms of the context of the surrounding natural and built environment. The proposed street wall height responds to existing streetscape and provides a strong corner element for King Street and Newcomen Street, Newcastle. The articulation and street setbacks on Newcomen and King Street is considered acceptable and provides for good articulation (refer to Appendix C).

A2. Building setbacks - The proposed development conforms to the requirements of the RFDC and is considered acceptable.

A3. Building separation - Building separation conforms to the requirements of the RFDC and is considered acceptable.

A4. Building depth and bulk - The proposal includes the use of natural ventilation in the form of skylights to reduce the reliance on artificial sources, compliant with this section.

A5. Building exterior - The proposed development responds well to the existing streetscape and is acceptable.

A6. Heritage Buildings - The proposed development is considered acceptable and integrates the new building into the existing heritage item.

A7. Awnings - N/A

A8. Design of parking structures - Car parking is provided on three levels and is accessed via King Street. The location of the car park is consistent with the requirement of this section.

B1. Access network - The proposed development will not impact on the city access network.

B2. Views and vista - The proposed development will not significantly impact on existing views or vistas.

B3. N/A

B4. Addressing the street - The proposal positively addresses the King and Newcomen Street frontage of the site and responds to the acceptable solutions outlined in this section.

#### Section 7.01 Building Design Criteria

The proposed development is considered acceptable in relation to the NDCP guidelines on building form. The development is of a scale and form appropriate for the inner city residential precinct. The proposal achieves appropriate building depth and bulk and also provides for a reasonable level landscaping given the constraints of the site.

#### Section 7.02 Landscape Open Space and Visual Amenity

As required under this section, the application has been supported by a comprehensive Landscape Concept Plan and design report prepared by a landscape architect.

The landscape concept plan demonstrates that the site will be suitably landscaped to compensate for the loss of tree canopy cover. The planting schedule provides for additional planting on site along with additional street trees. The landscaping plan is consistent with the above section. The area available for landscaping is considered adequate given the constraints of the site and underground car park.

A copy of the amended Landscape Concept Plan has been included in APPENDIX A.

#### Section 7.03 Traffic, Parking and Access and Section 7.04 Movement Networks

The proposed development complies with Section 7.03 - Parking, Traffic & Access in terms of parking as follows:

The Newcastle Development Control Plan 2012 includes the following car parking requirements:

- one space per 60m<sup>2</sup> for non-residential uses in the CBD;
- 0.6 spaces per one bedroom apartment;
- 0.9 spaces per two bedroom apartment;
- 1.4 spaces per apartment with three or more bedrooms;
- one space for the first three apartments plus one space per five apartments thereafter for visitors.

The proposed development includes 28 X one (1)-bedroom, 80 X two (2)-bedroom and 11 X three (3)-bedroom apartments, plus 1,097m<sup>2</sup> GFA commercial. On this basis, the proposed development would require 129 parking spaces, being:

- 106 resident spaces,
- 25 visitor spaces
- 18 commercial spaces

The proposed provision is 129 spaces, which satisfies this requirement.

Council's Senior Development Officer (Engineering) has considered the proposal to be acceptable and provided the following comments:

*'The traffic study supporting the application has been undertaken in accordance with NSW RMS' RTA's Guide to Traffic Generating Developments. In reviewing the TIA it was noted that;*

- *Appropriate traffic generation rates were used. In fact more recent RMS survey data indicates a lower traffic generation rate could have been justified.*
- *Trip distribution was appropriate.*
- *Existing traffic volumes were consistent with other recent traffic studies carried out in the area (GPT).*
- *SIDRA Modelling undertaken showed similar results to other recent traffic studies in the area (GPT).*

*In summary whilst a certain level of traffic congestion occurs in the area the acceptable capacity for the road network is not yet reached and this development will not cause the road network to reach capacity. Council is also seeking to encourage a modal shift for trip movements in this area from vehicles to public transport and traffic congestion in the area is seen as a way of encouraging this modal shift'.*

In summary, the access and parking areas are well integrated into the development and streetscape and are considered acceptable in relation to the NDCP guidelines.



### Section 7.06 Stormwater

Council's Senior Stormwater Engineer has provided the following comments in terms of water management:

*'The stormwater plan submitted by MPC is deemed to comply with Council's DCP and is encouraged because of the re-use of rainwater. The connection to Council's system in Newcomen Street is supported and with the available grade in Newcomen Street and the provision of an additional 60 to 70 m3 of detention, no capacity issues would be expected. No additional information required'.*

Conditions are recommended to ensure that the submitted Concept Drainage Plan is implemented as part of the site development works.

### Section 7.08 Waste Management

As required under this element, a Waste Management Plan has been provided with the application. Residential waste will be stored in a waste storage room located on basement level of the development. Bins will be transferred to the King Street frontage of the site for regular collection by a private waste collector. A condition has been included in the Draft Schedule of Conditions (refer to Attachment D) requiring construction and operational phase waste minimisation and management measures to be implemented.

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

### Section 8.00 Public Participation

The application was publicly notified in accordance with Council's Public Notification policy for a period of 14 days and 30 submissions were received in response. The proposal was amended to address concerns raised during the public notification period. The amended plans were renotified and eight submissions were received in response. The issues raised have been addressed below (refer to section (d) any *submissions made in accordance with this Act or the Regulations*).

#### **3.5 Any Matters Prescribed by the Regulations**

The proposal is considered to be satisfactory in this regard.

#### **3.6 The Likely Impacts of the Development**

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

- Bulk and Scale - The siting, scale, height and appearance of the proposed development is generally suitable as discussed under SEPP 65 considerations and would not unreasonably impact upon surrounds.
- Traffic and parking – This was discussed in detail under DCP 2015. The traffic, access and parking impacts are considered acceptable.
- Overshadowing - The overshadowing of adjoining buildings and the surrounding area is considered to be acceptable.
- Privacy - The privacy separation distances under the RFDC are satisfied to surrounding development and therefore privacy is considered acceptable.

### **3.7     *The Suitability of the Site for Development***

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

### **3.8     *Any Submissions made in accordance with this Act or the Regulations***

The proposal was advertised in the media and to neighbouring properties for 28 days in accordance with the Act. During the public exhibition period eight (8) submissions were received. The issues raised in the submissions have been addressed throughout this report.

This report has adequately considered the various concerns raised in the submissions received in response to the public notification and referral procedures under the Act and Regulation.

The responses from all government agencies, including RMS, RFS and Office of Water have been received and their comments have been incorporated into the draft schedule of conditions (**APPENDIX D**).

A copy of the responses from the government agencies has been included in **APPENDIX D**.

### **3.9     *The public Interest***

The proposed development does not raise any other significant general public interest issues beyond matters already addressed in this report.

## **4.     CONCLUSION**

Subject to a number of relevant conditions recommended in the attached draft condition schedule, the proposal is considered to be acceptable against the relevant heads of considerations under section 79C of the Environmental Planning and Assessment Act 1979.

## **5.     RECOMMENDATION**

Approval of this application is recommended

## **APPENDIX A - Proposed Plans, Landscape Pan and Fencing Details**

## **APPENDIX B - Visualisation and Streetscape Articulation**

## **APPENDIX C - Height Plan and Setback Analysis**

## **APPENDIX D - Draft Conditions**

## APENDIX E - Internal Referrals

### Comments from Internal Departments

Department	Comments
Council's Environmental Officer	Refer to attached memo dated 16/05/16
Council's Traffic and Stormwater Officer	Refer to attached memo dated 14/12/15 and 17/05/16
Council's Heritage Officer	Refer to attached memo dated 6/04/16
Council's Urban Design Consultative Group	Refer to attached memo dated 17/02/16 and 20/05/16