

**JOINT REGIONAL PLANNING PANEL
HUNTER AND CENTRAL COAST**

JRPP No	2016HCC019
DA Number	2016/00267
Local Government Area	Newcastle City Council
Proposed Development	Demolition of existing structures and construction of five storey commercial building, car parking and associated works.
Street Address	12 Stewart Avenue Newcastle West Lot 200 DP 122338
Applicant/Owner	Applicant - CKDS Architecture Owners - Spartohori Pty Ltd
Number of Submissions	One
Regional Development Criteria (Schedule 4A of the Act)	The proposal is listed within Schedule 4A of the Environmental Planning and Assessment Act 1979, being general development over \$20 million. The development is valued at \$21,037,827 including GST.
List of All Relevant s79C(1)(a) Matters	Environmental planning instruments: s79C(1)(a)(i) • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Urban Renewal) 2010 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy No. 71 - Coastal Protection • Newcastle Local Environmental Plan 2012 (LEP) Development Control Plan: s79C(1)(a)(iii) • Newcastle Development Control Plan 2012 (DCP) • Section 94A Development Contributions Plan 2009
List all documents submitted with this report for the panel's consideration	Appendix A - Conditions of consent Appendix B - Documents submitted with the application Appendix C – Integrated development approvals
Recommendation	Approval
Report by	Priscilla Emmett Senior Development Planner Newcastle Council
Report date	8 September 2016

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Development application (No. 2016/00267) has been lodged with Council, seeking consent for:

- demolition of all existing structures on the site;
- construction of a five storey commercial building with seven levels of car parking;
- provision of landscaping around the building; and
- associated infrastructure and site works.

The proposal was placed on public exhibition for a period of 14 days from 16 March 2016 to 4 April 2016 in accordance with the *Environmental Planning & Assessment Act* (EP&A Act), *Environmental Planning & Assessment Regulations* (EP&A Regulations) and Section 8 of Newcastle Development Control Plan 2012 (DCP). One submission was received during the notification period.

The application was referred to the Roads and Maritime Authority (RMS) and the Mine Subsidence Board in accordance to the provisions of s91 of *Environmental Planning and Assessment Act 1979* and State Environmental Planning Policy (Infrastructure) 2007. The RMS on 5 May 2016 provided no objections to the development and recommended a number of conditions be included on the consent in relation to vehicular access. The Mine Subsidence Board issued a conditional approval for the application on 18 August 2016.

The key issues raised in the assessment relate to the aesthetics of the building and the need for public activation of the streets on such a prominent corner site. The relationship of the building to the nearby heritage items, traffic impacts and site constraints (such as contamination) were also considered in detail during the assessment.

The application is recommended for approval as the development will provide additional employment in close proximity to the proposed Wickham Transport Interchange. This will have positive economic and social benefits and will assist in the renewal of the western precinct of the city.

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'regional development' of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposed development is listed within Schedule 4A of the EP&A Act, being general development over \$20 Million. The proposed development has a capital investment value of \$21,037,827 including GST.

1. INTRODUCTION

This report provides a detailed overview of the development proposal for a five storey commercial building and associated parking and infrastructure works at 12 Stewart Ave, Newcastle West. The development application is reported to the Hunter and Central Coast Joint Regional Planning Panel in accordance with 23G and Schedule 4A EP&A Act, as the development is a type classified under s.3 'general development over \$20 million', with the value of works being \$21,037,827 including GST.

2. BACKGROUND

The property boundaries have been amended several times since lodgement of the application. The RMS acquired the portion of the site located on the corner of Stewart Avenue and Hunter Street on 11 February 2016 for road widening purposes, which is now known as Lot 21 DP 1217043.

A consolidation of Lot 20 DP 1217043 (12 Stewart Avenue) and Lot 128 DP 773588 (783 Hunter St) was made to reflect changes in ownership of the site (to include the antique store) and was registered on 22 August 2016. The amendments to the lots have not altered the overall proposal and the relevant integrated referral bodies have been notified of the changes to the property description.

The application was amended several times during the assessment period. This included deleting the staging component, amending the estimated development costs (which resulted in a change in the determining body) and amending the design to address concerns raised by Council and the Urban Design Consultative Group.

3. SITE DESCRIPTION

The site has an area of 4639m² and is irregular in shape (as shown in **Figure 1** below). It has a street frontage of approximately 81m to Stewart Avenue and 28m to Hunter Street. The site contains a one storey antique furniture store in the north western corner facing Hunter Street, which is proposed to be demolished.

A right of way is located on the southern portion of the site and connects Stewart Avenue to Wood Street.

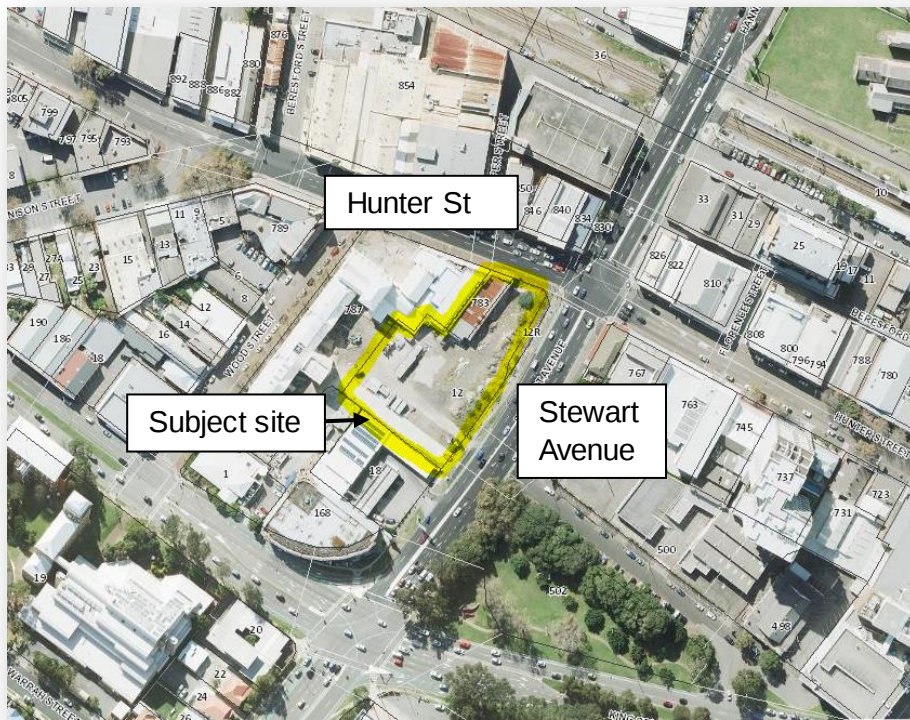


Figure 1: The subject site

There are a variety of different landuses in the vicinity of the site, with the area currently undergoing transformation with the future Wickham Transport interchange being located on the western edge of the city centre. Car Lovers car wash and the 'Gateway' commercial building are located to the south, two and three storey commercial buildings are located to the north including the heritage listed former Newcastle Co-Operative Store building. To the east is a two story backpackers building and Birdwood Park (also a local heritage site). The former Castlemaine Brewery (state heritage item) is located to the west of the site, which is currently being converted to serviced apartments. Photos of the site are located below.



Figure 2: The site viewed from Hunter St - the antique store to be demolished on the left and Former Castlemaine Brewery on the right.



Figure 3: *The site viewed from Stewart Avenue.*



Figure 4: *The site viewed from Wood Street.*

4. PROPOSAL

The application involves:

- demolition of all existing structures on the site;
- construction of a five storey commercial building and associated car park;
- provision of landscaping; and
- provision of associated services and infrastructure works.

The layout of the building includes three commercial zones which are separated by circulation and ventilation spaces. The development will provide between 8000-10,000m² of lettable floor space. The lift and amenities are located within the circulation spaces towards the centre of the building, which also links to the seven storey car park at the rear of the site. The car park provides 263 car spaces, 6 motorbike spaces and approximately 25 bicycle parking spaces (located within the ground floor of the parking area).

The ground floor includes a recessed walkway and a widened footpath area which opens onto Stewart Avenue and Hunter Street creating a civic plaza area on the corner of the site. Covered pedestrian entries are located on both streets providing access into the commercial building. A podium is created at the northern end of the site as the ground level of the development is raised by approximately 700mm. A ramp and band of steps will provide access into the building along both frontages.

A double row of trees will be planted along the southern portion of the Stewart Avenue frontage, with informal seating being placed along the tree canopy. Low planter beds are proposed to shield the traffic from the building and vertical green walls are to be located in the main entrance off Stewart Avenue. A landscaped courtyard and green wall is also to be located at the western end of the circulation zone leading into the carpark. Level six contains a rooftop garden and terraced area that can be used by the tenants of the commercial building.

The facade facing Stewart Avenue has been divided into bays of varying width to reflect the vertical divisions of the heritage facades on Hunter Street. The glazed base is defined by frames of anodized aluminium in bronze and copper tones. The Hunter Street facade has been designed to respond to the adjacent heritage building by stepping down in height to reflect the primary vertical and horizontal projections. Perforated metal screening will be used on the carpark at the rear to obscure the view from the former brewery site and add interest to this facade.

5. PLANNING ASSESSMENT

5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

5.1.1 Section 23G – Joint Regional Planning Panels

Section 23G and Schedule 4A (3) of the EP&A Act requires the Joint Regional Planning Panel (JRPP) to determine applications for general development over \$20 million in value. The capital investment value of the application is \$21,037,827 including GST. The application is to be determined by the Hunter and Central Coast Regional Planning Panel.

5.1.2 Section 91 – Integrated Development

The proposal is integrated development pursuant to Section 91 of the EP&A Act as approval is required from the Mine Subsidence Board and the Roads and Maritime Authority (RMS). The site is located within a proclaimed Mine Subsidence District and a conditional approval was granted from the Mine Subsidence Board on 18 August 2016.

Concurrence was required from the RMS under Section 138 of the *Roads Act 1993*, due to the proposed works connecting to Stewart Avenue, which is a classified road. The RMS granted concurrence on the 5 May 2016, which included a number of conditions in relation to vehicular access (refer to **Appendix C** for copies of the integrated approvals).

5.1.3 Section 79C Evaluation

The proposal has been assessed under the relevant matters for consideration detailed in s.79C (1) EP&A Act as follows:

5.1.3.1 Section 79C(1)(a)(i) provisions of any environmental planning instrument

State Environmental Planning Policy (State and Regional Development) 2011

This policy sets out the functions of regional panels in determining applications for regional development. Clause 20 and 21 of the SEPP require the Joint Regional Planning Panel to be the determining authority for development included in Schedule 4A of the Act. This includes applications for development over \$20 million in value. The application is submitted to the Hunter and Central Coast Joint Regional Planning Panel for determination as the value of works is over \$20 million.

State Environmental Planning Policy (Urban Renewal) 2010

This policy aims to facilitate the orderly and economic development of sites in and around urban renewal precincts. The site is identified in the Newcastle Potential Precinct Map and the development has a capital investment value of over \$5 million. Development consent cannot be granted unless the consent authority is satisfied that the development is consistent with the objectives of developing the precinct for urban renewal and does not restrict or prevent:

- higher density housing or commercial or mixed development;
- future amalgamation of sites; or
- access to future public transport in the precinct.

The proposed development will meet the objectives of the SEPP as it will provide for higher density commercial development in an area that will have easy access to public transport in the future. The site does not restrict future development opportunities in the area. The car wash site will remain located between the subject site and the recently developed Gateway building; however this site is of sufficient size to be developed at a later date without consolidation with adjoining lots.

The design of the site has also taken into consideration public access corridors and pedestrian links through the site that will connect to Hunter Street and the proposed Wickham Transport Interchange.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency. Schedule 3 of ISEPP, relates to traffic generating development and requires certain applications to be referred to the RTA (now known as the RMS). The application was referred to the RMS as it is a commercial premise with over 2500m² in area with access to a classified road.

The RMS provided a response on 5 May 2016 stating they have no objections to the development on the basis that certain conditions regarding vehicular access are included in the consent. In addition, they stated that all matters relating to internal arrangements on site are matters for Council to determine.

State Environmental Planning Policy No.71 - Coastal Protection

State Environmental Planning Policy No. 71 aims to protect and manage the New South Wales coast and foreshores and requires certain development applications in sensitive coastal locations to be referred to the Director-General for comment. It also identifies master plan requirements for certain developments in the coastal zone.

The proposed commercial development in this location will not impact on the foreshore or the interface with the waterways and related activities and as such is considered to be consistent with Clause 2 and 8 of SEPP 71. As such the application is acceptable under this policy.

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

Clause 7(1) (b) and (c) of SEPP No.55 require 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. The applicant submitted a Remedial Action Plan (RAP) to address known contaminated areas, which includes the asbestos affected soils and areas of heavy metal contamination. The proposed method for remediation is to excavate the contaminated area and dispose of the material to a licensed facility that can lawfully accept this waste. Following remediation works being conducted, the site will be validated and a report submitted to Council.

It has been determined that the areas of potential contamination once remediated, will be suitable for the proposed land use. On this basis, the provisions of SEPP 55 have been met and appropriate conditions have been placed on the consent in regards to the required remediation works.

Regional Environmental Plan

There are no regional environmental plans that are relevant to this proposal.

Newcastle Local Environmental Plan 2012

Clause 1.3 – Land to which Plan applies

Newcastle Local Environmental Plan 2012 (LEP) applies to land identified upon the 'Land Application Map'. The subject development occurs within this area.

Land Use Table - Zoning

The site is zoned B3 Commercial Core under the LEP. The proposed development is defined as a 'commercial premises' under the LEP and is permissible in the zone. The development meets the objectives of the zone as it will encourage employment opportunities in an accessible location, will maximise public transport patronage (when the Wickham Transport Interchange is constructed) and will assist in strengthening the role of the Newcastle City Centre as a regional business centre for the Hunter region.

Clause 4.3 Height of Buildings

The Height of Buildings Map has a maximum height limit for the site of 45m. The proposed development has a maximum height of 25.1m at the lift tower/circulation core, which is located 20m from the street frontage. The height at the Stewart Avenue frontage is approximately 21m, which is slightly below the 25.89RL height of the recently constructed Gateway building on the corner of Parry Street and Stewart Avenue.

The development has a height of 21m at the corner of Hunter St and Stewart Avenue. The height then steps down slightly towards the western boundary, where it adjoins the former brewery building. The height of the development complies with the height limit in the LEP and meets the objectives of this clause in that the scale of the development will make a positive contribution to the desired built form of the area.

Clause 4.4 Floor Space Ratio

The maximum floor space ratio for the site is 5:1. The proposed development has a floor space ratio of 2.37:1, which complies with this requirement.

Clause 5.5 Development within the Coastal Zone

The proposed development will not impact on access to the foreshore. It also will not impact on the amenity of the foreshore through overshadowing or loss of views from a public place. The site contains little vegetation at present and therefore the development will not have a negative impact on existing ecosystems or biodiversity in the area. An adequate stormwater management system has been proposed as part of the development to minimise any impacts from water and effluent disposal.

Clause 5.10 Heritage Conservation

The subject site is located within a Heritage Conservation Area. It is not listed as a local or state heritage item or an identified archaeological site. In relation to the Conservation Area, its significance is interpreted as:

The Newcastle City Centre Heritage Conservation Area is significant on many levels. The assemblage of commercial and civic buildings is a powerful reminder of the city's rich history and its many phases of development. The number of historic buildings surviving is quite remarkable for a city of this size, with a number of pre-1840s buildings surviving (Rose Cottage, c1830, Newcomen Club, 1830, Parts of James Fletcher Hospital). All of these are associated with the city's penal heritage. It is also known to be a city with a rich archaeological record of national significance, for its potential to yield information about the early convict settlement and early industrial activities. The city area is known to have been a place of contact between colonists and the indigenous population, who owned the land on

the southern shores of the Hunter River. This evidence is available in historical accounts and in the archaeological record surviving beneath the modern city. The high numbers of commercial and civic buildings of the 19th and 20th centuries gives the city a historic character, which is notable and allows an understanding of the importance of the city as a place of commerce, governance and city building. The historical foundation of the city was the discovery and exploitation of coal with good shipping access via a safe and navigable harbour. The town's layout by Surveyor General Henry Dangar in 1828 is still visible in the city's streets, and is an element of historical value.

Whilst the subject site is not listed, there are a number of items of cultural heritage significant items in close proximity to the site. These include buildings and plantings comprising:

- I1501 - Former Castlemaine Brewery (787 Hunter Street)
- I1502 - Cambridge Hotel (791 Hunter Street)
- I1504 - Former Newcastle Co-operative Store (854 Hunter Street)
- I1509 - Birdwood Park (502 King Street)
- I161 - Fig Trees (Stewart Avenue)

The applicant has submitted a Statement of Heritage Impact (SoHI) that generally accords with:

1. NSW Heritage Office publications, Assessing Heritage Significance and Statements of Heritage Impact, together with the Australia ICOMOS, The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 2013; and
2. NSW Heritage Manual booklet 2, "Assessing Heritage Significance" and the paper "Statement of Heritage Impact- a model" both published by the NSW Heritage Office, now known as the NSW Heritage Division of the Office of Environment & Heritage.

The demolition of the remaining commercial building on the site that faces Hunter Street is supported. The remaining building has little cultural heritage significance and is generally in poor maintenance.

In respect of the development, it is considered that the proposal is an unusual, but creative design response having regard to the surrounding built environment. The proposal is of a form, scale and massing generally compatible with the established character of the immediate locality. Due to the impending developments to be completed surrounding the site, it is considered that from an urban design perspective the new building will sit comfortably within the established streetscape.

The external materials, colours and textures are reserved and whilst the building will be visually prominent, the proposed modern design will not unduly disrupt the building typology of the precinct.

The closest adjoining heritage listed buildings are currently being repurposed (I1501) or under the subject of significant redevelopment plans (I1504). On a slightly wider view, Birdwood Park is likely to be the subject of substantive refurbishment works in the next few years driven by the nearby redevelopment of the former Hunter City Holden site and proposals from the RMS for the possible widening of Stewart Avenue. It is considered

that the proposed development will not adversely impact upon the identified significance of these items.

In summary, the form of the new building will not detract from the identified significance of the conservation area. The proposal meets the objectives of the Heritage Conservation Area as expressed in both the LEP & DCP.

Clause 6.1 Acid Sulfate Soils

The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). The development does not propose works 2m or more below natural ground level and a preliminary acid sulfate soils plan was not required.

Clause 6.2 Earthworks

The proposed earthworks will not have an adverse impact on the neighbouring uses or on environmental functions or processes. A detailed drainage study, geotechnical report and hydrogeologist report was submitted with the application. The hydrogeologist report recommended further work be carried out on site before construction to ensure there are no impacts on the bore water system that is used by adjacent properties.

Part 7 Newcastle City Centre

The site is located within the Newcastle City Centre and is identified as a key site. 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 proposed development will meet the objectives of Part 7 of the LEP as it allows for the redevelopment of a site for employment opportunities. The design is also respectful of the heritage conservation area and nearby heritage items and will add activity to the centre during the day. The development is of a quality design that will enhance the western entrance into the city through a building that has strong aesthetic qualities.

Clause 7.3 Minimum Building Street Frontage

The site is to have a minimum street frontage of 20m under clause 7.3. The frontage to both streets complies with this requirement as the frontage to Stewart Ave is approximately 81m and Hunter Street is 28m.

Clause 7.5 Design Excellence

The site is identified as key site with a capital value of more than \$5 million and requires an architectural design competition to be carried out prior to consent being granted. Clause 5 allows the Director General to certify in writing that the development is one for which an architectural design competition is not required. On the 10 August 2015, Public Works (Government Architects Office) waived this requirement '*as the proposed infill development is considered relatively modest in scale and does not give rise to any bonus requests or departures from any development standard under LEP 2012.*' However a design review panel was required to be established to oversee the design of the development.

The proposal was reviewed by Newcastle City Council's Urban Design Consultative Group (UDCG) and a representative of the Government Architects Office on the 19 August 2015 and 16 September 2015, prior to lodgement of the application.

The development application was reviewed again on the 17 August 2016 by the UDGC, after lodgement of the application. The UDGC raised concerns over the finishes of the glass and the quality of the landscaping. These issues have been addressed as the applicant provided detailed information on the type of glass and the reflectivity (low e vision glass with a reflectance of not more than 20%, which will be clearer and lighter in colour than the Gateway development).

The concern over landscaping was in relation to its proximity to Birdwood Park and the importance of consistency with plant selection along Stewart Avenue. Council is satisfied with the landscaping proposal and as previously stated Birdwood Park maybe refurbished in future years due to the possible development of nearby key sites.

The development meets the design excellence criteria of the LEP and is of a high standard of architectural quality. The development will improve the quality and amenity of the public domain and does not impact on any view corridors. The development has also addressed heritage issues, circulation requirements and has an acceptable bulk and mass and articulation for such a key site.

An Architectural Design Statement has been submitted with the application that addresses the design principles that have been used to formulate the development. It also includes a number of options explored for the site during the design phase.

Clause 7.6 Active Street Frontages in Zone B3 Commercial Core

This clause states that consent cannot be granted for a development in a B3 Commercial Zone unless the building will have an active street frontage, where the ground floor facing the street is to be used for business or retail premises. The proposed development is for a commercial building, with the broad definition of commercial premises allowing a number of different uses that can take place in the building including business and retail premises.

The design of the development includes a glazed facade on the ground floor with covered pedestrian areas and a widened footpath area facing Hunter Street, which will encourage activation of the street frontage. It is anticipated that a café will be located on the corner of Hunter Street and a podium area has been designed in this corner to accommodate such a use. The design of the development meets the requirements of this clause.

Clause 7.9 Height of Buildings

The maximum height of the building within 20m of the boundary must not exceed 22m above ground level. The proposal complies with this requirement as the building has a maximum height of 21m in this area.

5.1.3.2 Section 79C(1)(a)(ii) 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.

5.1.3.3 Section 79C(1)(a)(ii) any development control plan (and section 94 plan)

The main planning requirements of relevance in the Newcastle Development Control Plan 2012 (DCP) are discussed in detail below.

3.10 - Commercial Uses

The development meets the aims and objectives of this section of the DCP as it encourages commercial development that will have a positive contribution to the surrounding development. The proposal will also activate the street frontage and promote pedestrian traffic along the ground floor with the inclusion of business spaces that overlook the public domain.

4.10 - Flood Management

The site is subject to flooding and a Flood Certificate has been obtained from Council. The proposed carpark and the building on the ground floor have been set at 4.2m AHD as recommended in the Flood Certificate, which meets the requirements of this section of the DCP.

4.03 - Mine Subsidence

The site is located within a proclaimed Mine Subsidence District and a conditional approval was granted from the Mine Subsidence Board on 18 August 2016.

4.04 - Safety and Security

The buildings have been designed to reduce crime risk and enhance the safety and security of public and private spaces. The design includes a number of communal areas, in particular the circulation spaces within the building. These spaces have been designed with clear sightlines to minimise opportunities for concealment and allowing opportunities for effective lighting and access control.

The circulation spaces assist with passive surveillance as a number of users will be accessing the different areas and access points during the day and night. Access control through various restrictions and security doors is also proposed. Communal landscaped areas have been positioned on the site to attract passive use of areas near the car park entry, which will assist with security on the site.

The activation of the street frontage through the commercial uses and glazing of the facade will also allow for casual surveillance of the site. The identifiable entry and access points into the building and the car park are also positive features that will increase the safety and security of the development.

5.01 Soil Management

A Sediment and Erosion Management Plan has been submitted with the application to minimise sediments being removed from the site during the construction period. A condition has been placed on the consent to ensure such measures are in place for the entire construction period. Minimal cut and fill is planned for the site as the car parking will be located at ground level with no major excavations proposed.

5.02 - Land Contamination

As previously discussed under SEPP 55 Land Contamination, the site is contaminated and a Remedial Action Plan has proposed a number of measures to remediate the site. Implementation of this plan will reduce the risks to human health and the environment, which is consistent with the requirements of the DCP.

5.05 and 5.07 Heritage Items and Heritage Conservation Areas

As previously stated under clause 5.10 of the LEP, the site is located within a Heritage Conservation Area and is in close proximity to a number of heritage items. A Statement of Heritage Impact was submitted with the application and it was concluded that the development will not significantly impact on the adjacent heritage items and will not detract from the Heritage Conservation Area. The development includes a substantial car park, which is located behind the building line and will not be viewed from the street, which is consistent with the requirements of the DCP. The parking will also be screened by a metal façade, which will add interest to this portion of the building.

6.01 Newcastle City Centre - West End Locality Provisions

A1 - Street Wall Heights

The required street wall height along the southern corner of the site at Stewart Avenue is 22m and for the remainder of the site it is 16m. Development above the street wall height is to be setback a minimum of 6m.

The development has a height of 21m along the Stewart Avenue elevation and complies with the street height limit for the southern portion of the site. The street wall height is exceeded at the northern corner of Stewart Avenue and along the Hunter Street elevation, being approximately 21m in height. The height limit has been exceeded to accentuate the corner position of the site. The variation to the height is supported as the additional height does not cause any significant additional overshadowing impacts or privacy impacts. In addition, the building has been designed to be sympathetic to the existing heritage buildings in Hunter Street.

The use of the recessed walkway area and the creation of a plaza area also adds character to the corner which detracts from the impact of the increased street wall height. The design of the development has also been endorsed by the Urban Design Consultative Group.

A2 - Building Setbacks

The front, side and rear setback requirement in the DCP for the development below street wall height is nil. The setback above the street wall height (22m and 16m) is 6m.

The development meets the setback requirements for the portion of the site below the street wall height. The setback of the development varies on all elevations, with a greater setback located on the north eastern corner to enable the corner of the building to be defined and to allow a sheltered pedestrian area on the ground floor. The various setbacks proposed include:

- Stewart Avenue (southern portion) - between 2- 2.5m on all levels
- Stewart Avenue (northern portion) - between 3-7m, above ground is between nil and 4.5m
- Hunter Street - ground floor is between 2 - 7.5m and above ground is between nil and 1m
- Western (rear boundary) - between nil and 0.5m at all levels
- Southern (adjoining the right of way) 0 between nil and 0.5m on all levels

The setback variations above the street wall height are supported for a number of reasons. The building is located on a key corner site and has been designed to be

sympathetic with the existing heritage buildings to the north west and the new Gateway building to the south. It is also substantially below the maximum height and FSR requirements, with the bulk and scale of the proposed development being less than what is permissible on the site.

The reduced setbacks above the street wall level do not cause any additional overshadowing impacts or impacts on privacy. The modern design and zero setback above the street wall height suits the style and contemporary nature of the commercial building.

A4 - Building Depth and Bulk

The DCP requires commercial towers to have a maximum floor plate of 1200m², a maximum building depth of 25m, and length of 50m above street wall height. Commercial development should also have large floor plates expressed as separate building elements of not more than 1200m².

The proposed development has three primary components, which are separated by a cruciform shaped separation zone. The floor plates of the building elements are acceptable.

A5 - Building Exteriors

The DCP requires building exteriors to feature high quality design with robust materials and finishes, and make a positive contribution to the streetscape and public domain. The proposed development meets the performance criteria of the DCP as it is proposed to use materials and finishes that complement the character of the precinct.

The glazed curtain wall system with perforated aluminium anodised façade and painted masonry finishes will be consistent with the design on the nearby Gateway development and will not detract from the Heritage Conservation Area. The shape and form of the building along Hunter Street is different to that along the Stewart Avenue frontage, to respect the bulk and scale of the nearby heritage items.

The building has also been articulated to create distinction between the base, middle and top of the building. The base of the building is recessed to create a public domain area along the street, particularly the corner of Stewart Avenue and Hunter Street.

A6 - Heritage Buildings

As previously stated under clause 5.10 of the LEP, the site is located within a Heritage Conservation Area and is in close proximity to a number of heritage items. A Statement of Heritage Impact was submitted with the application and it was concluded that the development will not significantly impact on the adjacent heritage items and will not detract from the Heritage Conservation Area.

A7 - Awnings

The building has been recessed to create a continuous awning around the building. The building entries are all located under cover, with a greater recessed area being located at the corner of Hunter Street and Stewart Avenue, to improve pedestrian amenity.

A8- Design of Parking Structures

The DCP requires above ground parking structures to be well designed and to have minimal visual impact. The proposed parking is located at the rear of the site and will be

screened from both Stewart Avenue and Hunter Street. A metal screen is to be placed over the parking areas to improve its appearance from Wood Street. Council's Urban Design Consultative Group endorsed the design, which is a requirement of this section of the DCP.

B- Public Domain

A concept public domain plan has been provided with the application. The plan has proposed the upgrade of the footpath along Hunter St and Stewart Avenue and has also considered the impact of the land acquisition by the RMS for road widening at the intersection of these two streets.

Through site links linking Stewart Avenue and Hunter St to the site have been provided. The site link will provide a much needed connection to the Wickham Transport Interchange from the development and is supported. The final design for the public domain and through link should be universally designed to cater for everyone.

Wind Tunnelling

The overall design of the through link and the impact on pedestrians will need to be considered in regards to any wind tunnelling impacts. It is noted that wind reports take time to prepare due to their complexity and development scenarios and a wind tunnelling report has been conditioned to be supplied prior to the issue of the construction certificate. This report may also make recommendations for design changes to the architectural drawings.

B1 - Access Network

The DCP encourages pedestrian and vehicular connections that promote active transport, through walking and cycling and use of public transport. The development has created a large pedestrian pathway around and through the building, which allows connectivity within the site and to adjacent public spaces and streets. The entries have been located to consider future links with the proposed Wickham Transport Interchange.

B2 - Views and Vistas

The proposal will not impact on any important view corridors or cause loss of views.

B3 - Active Street Frontage

A glazed facade is used on the elevations of the building which will assist with activating the street frontage and will allow unobstructed views to the footpath. In addition, the civic plaza area on the north eastern corner of the site will allow for activation of this space. The layout of the ground floor is conducive to a retail use being located in this corner, which will promote pedestrian activity.

B5 - Public Art

The development is required to contribute 1% of the capital cost of the development towards public artwork for the development. A condition will be placed on the consent for the inclusion of public art to be included in the development and approved by Council prior to the issue of the Construction Certificate.

B6- Sun Access to Public Spaces

Shadow diagrams have been submitted with the application that indicates that a minimum of two hours of sunlight in winter is provided in nearby public spaces including Birdwood Park.

Key Precincts - Birdwood Park

The Birdwood Park precinct has the potential to become part of the future central business district of Newcastle, due to the location of the new transport interchange. There are many objectives for development in this precinct, including the promotion of active street frontages, protection of heritage items and promotion of commercial development. The proposed development is consistent with these principles as it includes an active street front, has minimal impacts on the heritage items and conservation area and will encourage pedestrian connections within the precinct.

7.01 Building Design Criteria

The relevant provisions in this section of the DCP have all been discussed elsewhere in the report and include such provisions as height, FSR, setbacks and design.

7.02 - Landscape, Open Space and Visual Amenity

A landscape plan has been submitted with the application which proposes tree planting along the Stewart Avenue frontage. Informal seating is to be placed along the canopy and green walls are to be located along the main entry zone and near the carpark entry to soften the built form. A roof terrace area is also located on site and will allow for a roof top garden with planting and seating. This will also allow views across to Birdwood Park.

7.03 Traffic, Parking and Access

A Traffic Report was submitted with the application and the data provided confirms that the streets surrounding the site are capable of servicing the development. Council concurs with this report and consideration has also been made to traffic generation and existing issues on Wood St. The report stipulates that Wood St will not be drastically affected by the development. The access from Stewart Avenue will further assist in resolving access issues to and from the site. Access is also provided into the car park from Wood Street via the right of way.

Recent traffic studies conducted as part of the light rail development confirm that the road network around Wickham Station including Hunter St, Stewart Avenue and Wood St can still provide satisfactory service. It is also noted that the RMS has recently acquired land from this site at the south eastern corner of Hunter St and Stewart Avenue to create a left turn lane. The traffic flows will be improved when the left turn lane is constructed which appears to be part of the light rail project.

The RMS supported the new driveway access from Stewart Avenue which provides a link between Stewart Avenue and Wood St for the proposed development and future developments on the site. The Traffic Report also indicated that the proposed car park will be able to sustain the demand to enter and exit from Wood Street without much impact to the street or the traffic signals.

Parking Rates

The parking requirements under the DCP for commercial development in the city centre include:

- one space per 60m² gross floor area
- one bicycle parking space per 200m²
- one motorbike space per 20 car spaces

This equates to the need for 167 car spaces, 50 bicycle spaces and 8 motorbike spaces.

A total of 263 car parking spaces have been included in the development of which four spaces have been designated as disabled spaces. Parking has also been provided for 6 motorbike spaces and approximately 18 bicycle storage spaces and 7 bicycle spaces on the ground floor.

The development provides a surplus of 96 spaces, which the applicant has stated will be used as overflow parking for the Gateway development.

The DCP requires approximately 50 bicycle spaces and half this number have been supplied. However it is noted that non-secured bicycle parking can be provided and dispersed around the site. This will provide for alternative locations to park bicycles particularly for visitors. In this regards, it is recommended to have a total of 40 bicycle spaces, 18 being secured and 22 being non-secured.

The shortage of two motorbike spaces can be accommodated in the additional car parking spaces.

The number of off-street parking spaces proposed is adequate and exceeds the requirements in the DCP. The additional parking can be sustained and allows for changes to the development in the future if required.

Bicycle Parking and End User Facility

A condition has been placed on the consent for additional bicycle parking spaces to be provided on site. There appears to be adequate room on site to cater for this requirement.

The development has provided change rooms for cyclist/others (separate male / female change rooms) who may intend to use alternative transport. The end user facility such as secured bicycle spaces, locker and change rooms allow for the promotion of an alternative transport mode, including bicycle riding, running, walking and other forms of travel. The provision for secured bicycle spaces and end of user facilities will promote alternative transport which will assist in a sustainable City.

Green Travel Plan

A green travel plan can be developed for the site including alternative modes of transport including bicycles and public transportation. A condition has been placed on the consent in this regard.

The provision for secured bicycle spaces and end of user facilities will promote alternative transport which will assist in a sustainable City.

7.05 Energy Efficiency

An energy efficiency report is required to be submitted to demonstrate that the building achieves a rating of not less than 4 Star Green rating in the Green Building Council of Australia Rating System. This report has not been submitted with the application. However the applicant is currently undertaking a JV3 assessment to meet the energy efficiency requirements of the Building Code of Australia Section J. This assessment will meet the objectives of the DCP in regards to energy efficiency.

7.06 Stormwater

A stormwater management strategy was provided with the application and a number of amendments were made during the assessment to address Council concerns. The stormwater management strategy and proposed stormwater design has been carried out to current Council DCP, Technical Specifications and industry standards.

Stormwater Design, Detention and Reuse

The concept stormwater design has allowed for an On Site Detention (OSD). The 39m³ OSD is provided under the south eastern building which will detain stormwater. The stormwater will be treated within the sand filter which has an area of approx. 19m² which will be the primary means for stormwater treatment before discharging to the street.

A separate 21m³ tank is provided which will capture stormwater run-off from the roof areas. This tank will then recycle stormwater to the toilets for flushing and external landscaping. Adequate drainage provision has been made to allow for the run-off from the green walls to be captured and discharged.

The required OSD storage, stormwater reuse and stormwater treatment method is generally in accordance with Council requirements.

Drainage Connection

The stormwater design allows for the OSD from the carpark to be connected to a proposed new pit within the site. The pit is proposed to discharge to an existing drainage pit on Stewart Avenue. A non-return valve and a surcharge pit are provided for emergency overflow in case the drainage is blocked.

Maintenance & Monitoring and Safety

The proposed stormwater structures will require regular monitoring and maintenance to ensure the system is functional. A detailed monitoring and maintenance plan will be required to be developed and a condition has been placed on the consent to address this issue.

The principles of WSUD and the requirements of the DCP have been effectively applied to the development. The stormwater management strategy and supporting documents have demonstrated that the development will not impact on the downstream ecology, is sustainable and can be maintained in the long term.

7.08 Waste Management

A waste management plan for the construction of the development has been supplied. Conditions will be placed on the consent regarding demolition waste and ongoing waste management for the occupation of the building.

8.00 - Public Participation

The application was notified for a period of 14 days and one (1) submission was received.

The following concerns were raised:

- Loss of solar access to the existing solar panels which currently supply 50% of power to the site

Comment

The development has been designed to meet the solar access provisions in the DCP. The submitted shadow diagrams show that the adjacent site achieves over two hours of sunlight on the site in mid-winter, which meets the requirements of the DCP.

- The traffic report does not address the adjacent site and potential impacts on the adjacent business

Comment

An additional traffic report was submitted by the applicant addressing these concerns.

The traffic report stated that peak traffic periods for the adjoining business would be on weekends and the proposed access by the development would have little impact on the adjacent sites access.

The access would also not adversely impact on the local road network and the access point is suitable and complies with the relevant standards.

- The proposed street trees will obscure views of existing business signage

Comment

The proposed planting can grow 10-15 metres high and the canopy is sparse which will allow visibility through the canopy. It is anticipated that the existing signage will not be detrimentally impacted upon by the development.

- Impacts of the development on the bore water system during construction and potential damage to the acquirer due to construction difficulties on an adjacent site.

Comment

The applicant has agreed to engage a hydrogeologist to supply a report before the construction certificate is issued and a condition will be placed on the consent to this effect. A methodology proposal was submitted in response. The methodology involves assessing the potential for the adjacent private bore to be affected by the installation of concrete piles during the construction period. To do this a pumping test on the bore will be conducted to gather baseline data to provide predevelopment information and an indication of the zone of influence around the bore. This will be done in consultation with the adjacent owner. This proposal is supported and is believed it will address the issues raised in the submission.

The application attracts Section 94A Contributions pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Newcastle Section 94A Development Contributions Plan. A contribution of 2% of the cost of development would be payable to Council as determined in accordance with clause 25(j) of the *Environmental Planning and Assessment Regulation 2000*.

5.1.3.4 Section 79C(1)(a)(ia) Planning agreements

No planning agreements are relevant to the proposal.

5.1.3.5 Section 79C(1)(a)(iv) the regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act* and *Regulation 2000*. In addition, compliance with AS 2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

Lower Hunter Regional Strategy

The primary purpose of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years. One of the key elements of the Strategy is to create strong vibrant centres and encouraging employment near public transport nodes. The proposal is consistent with the Strategy as it will provide employment in a central location that has excellent access to public transport and other facilities and services.

5.1.3.6 Section 79C(1)(a)(v) Coastal management plan

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

5.1.3.7 Section 79C(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The site is located in an urban renewal corridor and the design of the building has considered the context of the site, which contains heritage items and is located within a heritage conservation area.

The contemporary design of the development is sympathetic to the existing buildings, and will serve as a catalyst for future development in the area. The articulated facade adds interest to the building and the recessed ground floor will activate the street. The building also has minimal overshadowing or overlooking impacts on the existing built environment.

The development will have minimal impacts on the natural environment. The site does not contain any significant vegetation and will not impact on any natural ecosystems. Appropriate measures will be in place during the construction of the development to minimise any sediments leaving the site or entering the waterways during construction. The site will also be remediated to remove any known contaminants on the site.

The development will have positive social and economic benefits as it will provide a large scale commercial development in an urban renewal corridor. It will facilitate

employment within walking distance to public transport and local services, as well as providing employment during the construction period.

The development will also assist with strengthening the role for Newcastle as regional business, retail and cultural centre, which is in line with the strategic directions for Newcastle.

A Noise Assessment was also submitted with the application, which considered the impacts of construction, car parking and plant noise generated by the proposed development. The assessment concluded that there will be no adverse noise or vibration impacts as a result of the construction or operation of the building.

5.1.3.8 Section 79C(1)(c) the suitability of the site for the development

The site is suitable for the proposed development as it is located within an urban renewal corridor. The site is identified as key site within the Newcastle City Centre due to its location on the western edge of the city and close proximity to the Wickham Transport Interchange. The development of a commercial building on the site is permissible in the zone and is consistent with the principles for the development of the west end.

5.1.3.9 Section 79C(1)(d) any submissions made in accordance with this act or the regulations

The application was notified and advertised in accordance to the Regulations and one submission was received, which has been discussed in detail under Section 8 of the DCP.

5.1.3.10 Section 79C(1)(e) the public interest

The development is in the public interest as it will allow for the orderly and economic development of the site. It will allow for the creation of employment in an accessible location, which is well serviced by public transport.

The site is located in a key position on a classified road and development of the site would be a significant improvement to the streetscape through the addition of a modern articulated building that will activate the surrounding streets.

6. CONCLUSION

Subject to a number of relevant conditions as 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.

7. RECOMMENDATION

- A. THAT the Hunter and Central Coast JRPP, as the consent authority, approve development consent to DA2016/00267 (2016HCC019) for the demolition of existing structures and construction of a five storey commercial building, parking and associated site works, at Lot 200 DP 122338, 12 Stewart Avenue, Newcastle West, pursuant to Section 80 of the EP&A Act subject to the conditions in Appendix A; and**

B. THAT those persons who made submissions be advised of the determination.