STATEMENT OF ENVIRONMENTAL EFFECTS

643 – 651 HUNTER STREET, NEWCASTLE (LOT 1 DP1166015)
PROPOSED MIXED USE DEVELOPMENT

Prepared on behalf of:
CATHOLIC DIOCESE OF MAITLAND-NEWCASTLE

Prepared for submission to:
NEWCASTLE CITY COUNCIL

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1. INTRODUCTION

1.1 Overview of Proposed Development

This Statement of Environmental Effects (SEE) has been prepared on behalf of the Catholic Diocese of Newcastle – Maitland (the applicant) to accompany a development application (DA) for a mixed use development at 643 – 651 Hunter Street, Newcastle West (Lot 1 DP1166015).

The subject DA relates to the following works:

- construct a new 13 storey shop top housing development with a height of 48 metres
- the provision of a ground floor commercial unit and 128 residential units;
- provision of offstreet parking for 136 vehicles as well as motorbike and bicycle storage,
- provision of landscaping, associated services, drainage infrastructure, etc.

It is intended vision of the Diocese that a number of residential units will be made available to the market as affordable rental housing through an appropriate provider. The development has considered the needs of such providers with relation to design and accessibility.

The proposal has been formulated having full and proper regard to existing development controls and to the environmental qualities of the site and its surroundings. This SEE demonstrates that the proposal substantially complies with the development controls applying to the site.

1.2 Consent Authority

The cost of development is $25,978,898 exclusive of GST. The project's capital investment value is $28,851,788. A detailed cost summary report is included with the DA package. The Joint Regional Planning Panel (JRPP) is the determining authority for the proposed development as it has a capital investment value of more than $20 million.

1.3 Integrated Development Provisions

The development is Integrated Development pursuant to Section 91 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The site is located within a proclaimed Mine Subsidence District and as a result, the general terms of approval from the Mine Subsidence Board are required pursuant to section 15 of the *Mine Subsidence Compensation Act 1961*.

An Aboriginal archaeological assessment is underway (refer to **Appendix 19**) which will form the supporting documentation for an Aboriginal Heritage Impact Permit (AHIP) to be submitted to the Office of Environment and Heritage pursuant to Section 90 of the *National Parks and Wildlife Act 1974*. The referral will be made once all supporting documentation is complete.

1.4 Scope of Statement of Environmental Effects

This SEE accompanies a DA for the proposed development. It has been prepared on behalf of the applicant and includes the matters referred to in Section 79C of the EP&A Act and the matters required to be considered by Council.

The purpose of this SEE is to:

- Describe the proposed development;
- Describe the land to which the DA relates and the character of the surrounding area;
- Define the statutory planning framework within which the DA is to be assessed and determined;

- Assess the proposed development in the light of all relevant heads of consideration.

The following drawings, documents and specialist reports have been prepared in support of the DA and are included in the appendices:

- Location Plan (**Appendix 1**)
- Aerial Photo of Locality (**Appendix 2**)
- Zoning – Newcastle Local Environmental Plan 2012 (**Appendix 3**)
- Height – Newcastle Local Environmental Plan 2012 (**Appendix 4**)
- Floor Space Ratio – Newcastle Local Environmental Plan 2012 (**Appendix 5**)
- Architectural Drawings prepared by EJE Architects (**Appendix 6**)
- SEPP 65 Design Verification Statement & Urban Design Analysis by EJE Architects (**Appendix 7**)
- Landscape Masterplan and Design Report prepared by Terras (**Appendix 8**)
- Traffic, Parking and Access Strategy prepared by Seca Solutions (**Appendix 9**)
- Geotechnical Report prepared by Coffey Geotechnics (**Appendix 10**)
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- BASIX Report prepared by Building Sustainability Assessments (**Appendix 12**)
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- Statement of Heritage Impact prepared by EJE Heritage (**Appendix 17**)
- BCA Compliance Report prepared by NewCert (**Appendix 18**)
- Archaeological Assessment Letter prepared by Umwelt (**Appendix 19**)

1.5 Pre-DA Consultation

The proposed development was discussed informally with Development Planner, Geof Mansfield. The proposal has not been discussed in a formal capacity with Council's Urban Design Consultative Group (UDCG) or as part of a Pre-DA meeting. The proposal was subject of a review by Hunter Development Corporation (HDC). Key areas of discussion included setbacks, street wall height, safety, interface between the site and surrounding development, landscape and amenity. The DA plans provided in **Appendix 6** have been developed to satisfy HDC's requirements and vision for the site.

2. PROPOSED DEVELOPMENT

2.1 Description of the Proposed Development

The subject DA relates to the following works:

- Preparatory earthworks, excavation and site preparation;
- Construction of a new 13 storey, 48 metre high building comprising a commercial premise at ground level (702m^2) and 128 residential units over Levels 3-13 (24 x studio, 33 x 1-bedroom and 68 x 2-bedroom and 3 x 3-bedroom);
- Off-street parking for 136 vehicles, as well as motorbike and bicycle parking;
- The provision of street trees as well as landscaping associated with the building entry areas and roof top terrace.
- The provision of associated services, drainage infrastructure, etc.

Architectural plans prepared by EJE are provided in **Appendix 6**.

The development is described in further detail below:

- **Ground Level** – The ground level commercial unit has an area of 702m^2. Primary commercial entry is via Hunter Street with a disabled access ramp to the commercial premises via Steel Street. The commercial unit incorporates toilet facilities (disable compliant) and kitchen, direct access to the car park, store room, garbage storage and back of house / loading dock. The ground floor car park is designated as commercial parking for 15 vehicles. Vehicle entry is via the two-way driveway at the southern end of the Steel Street façade.

  Entry to the residential foyer is via Steel Street. Vehicle entry to the residential car parking (Levels 1 and 2) is via the two-way driveway at the southern end of the Seel Street façade. The residential foyer provides secure access to lifts and letterboxes. Residential garbage storage as well as storage for 18 bicycles (accessible to both commercial and residential tenants) is located in the ground floor car park.

  Mechanical, electrical and fire safety plant and equipment are located on the ground floor.

  Extensive use of glazing associated with the commercial tenancy, provision of awnings along both facades, and clearly articulated entries all encourage activation at the street level. Entries are recessed from the front boundary and are further articulated through the use of raised awnings and building identification signage.

  Landscaping at Ground level includes the retention of 5 existing street trees along the Steel Street frontage. Whilst no additional landscaping is proposed on the ground floor, improvements to streetscape are proposed through pavement selection and treatments to be consistent with the NCC City Centre Public Domain Technical Manual – September 2014.

- **Level 1** – Parking for 62 vehicles, 6 motorcycle parking spaces and storage for 15 bicycles are located on Level 1. Secure access to the residential lobby and lift are available within the Level 1 car park.

  The use of stainless steel mesh panels along the Level 1 façade provides natural ventilation to much of the car park. Combined with the use of horizontal metal screens and display screens, the car park is visually integrated into the overall design and makes a positive contribution to the streetscape. Mechanical ventilation is provided for the areas of the Level 1 carpark that do not have access to natural ventilation.

- **Level 2** – Parking for 59 vehicles (including 4 disable compliant spaces), 5 motorcycle parking spaces and storage for 15 bicycles are located on Level 2. Secure access to the residential lobby and lift are available within the Level 2 car park.

  The use of stainless steel mesh panels along the Level 2 façade provides natural ventilation to much of the car park. Combined with the use of horizontal metal screens and display screens, the car park is

visually integrated into the overall design and makes a positive contribution to the streetscape. Mechanical ventilation is provided for the areas of the Level 2 carpark that do not have access to natural ventilation.

- **Level 3** – 8 x studio, 3 x 1-bedroom, 4 x 2-bedroom and 1 x 3-bedroom apartments are located on Level 3. East and west facing apartments are allocated substantial private gardens ranging between 13.1m^2 and 42m^2. North facing apartments have access to at least two private balconies of 6.2m^2 each.

  A community room (including kitchen and bathroom) with an area of 66.8m^2 is located adjacent to the building's southern façade. Two community gardens with areas of 40.2m^2 and 166.4m^2 are directly accessible from the community room.

- **Level 4** – 8 x studio, 3 x 1-bedroom, 4 x 2-bedroom and 1 x 3-bedroom apartments are located on Level 4. East and west facing apartments have access to private balconies ranging between 6.3m^2 and 16m^2. North facing apartments have access to at least two private balconies of 6.2m^2 each.
- **Level 5** – 8 x studio, 3 x 1-bedroom, 4 x 2-bedroom and 1 x 3-bedroom apartments are located on Level 5. East and west facing apartments have direct access to private balconies ranging between 6.3m^2 and 16m^2. North facing apartments have direct access to at least two private balconies of 6.2m^2 each.
- **Level 6 – Level 13** – each level has 3 x 1-bedroom and 7 x 2-bedroom apartments. All apartments have direct access to a private balcony of between 9.8m^2 and 17.3m^2.
- The plant level supports 2 plant rooms and 2 tank rooms. A wrap-around exterior roof terrace with pergola shading, planters and a mix of artificial grass and paved floor surfaces provide additional communal open space.

The development has an overall height of approximately 48 metres to the top of the plant room.

2.2 Materials and Finishes

The building incorporates a range of high quality and durable finishes including metal composite cladding (wood look) features to the Steel Street façade, rendered blockwork, powder coated fixed and operable aluminium louvres, glass façade panels and glass balustrades. The car park levels will be screened using a combination of woven metal mesh and perforated aluminium façade panels. Extensive glazing is proposed for the ground floor commercial unit. Further details are provided in the Architectural Plans in **Appendix 6** and the SEPP 65 Design Verification report at **Appendix 7.**

2.3 Schedule of Drawings

The proposed development is detailed on the following drawings which form part of the DA. Copies of the drawings are provided at **Appendix 6**.

Drawing No.	Drawing Title	Issue
Architectural Drawings prepared by EJE Architecture		
A000	Cover Sheet	A
A001	Site Plan	A
A002	Site Analysis Plan	A
A003	Site Locality Plan	A
A102	Ground Level Floor Plan	E
A103	Level 1 Floor Plan	D
A104	Level 2 Floor Plan	D
A105	Level 3 Floor Plan	E
A106	Level 4 Floor Plan	C

Drawing No.	Drawing Title	Issue
A107	Level 5 Floor Plan	D
A108	Level 6 Floor Plan	D
A109	Level 7 Floor Plan	C
A110	Level 8 Floor Plan	C
A111	Level 9 Floor Plan	C
A112	Level 10 Floor Plan	C
A113	Level 11 Floor Plan	C
A114	Level 12 Floor Plan	C
A115	Level 13 Floor Plan	C
A116	Plant Level Plan	D
A117	Roof Level Plan	C
A501	North Elevation	A
A502	East Elevation	A
A503	South Elevation	A
A504	West Elevation	A
A505	Section A0A & B-B	A
A1000.1	Shadow Diagram – 9am	A
A1000.2	Shadow Diagram – 12 Noon	A
A1000.3	Shadow Diagram – 3pm	A
A1001	Perspective 01	A
A1002	Perspective 02	D
A1016	Schedule of External Finishes	A
Landscape Plan prepared by Terras Landscape Architect		
11310.5	Landscape design report	A
L01	Landscape Floor Plan	A
L02	Landscape Level 3 Plan	A
L03	Landscape Roof Plan	A
L04	Planting Palette	A
Stormwater Plan prepared by Northrop Engineers		
C01DA	Concept Sedimentation and Erosion Control Plan	A
C02DA	Stormwater Management and Levels Plan - Ground Floor Level	A
C03DA	Stormwater Management and Levels Plan – Roof / Podium Level	A

3. THE SITE AND SURROUNDING AREA

3.1 Site and Building Description

The site (Lot 1 DP1166015) has an area of 2,078.5m^2. It has frontage to Hunter Street of 41 metres and Steel Street of 51 metres (approx.). The southern boundary is 39 metres and western boundary is 52 metres (approx.). The site is vacant and does not support any vegetation. Five street trees are located adjacent to the Steel Street frontage.

The nature of the site is shown in Photographs 1 to 5 below and in the aerial photo in **Appendix 2**.

Photograph 1 – Looking south west toward the site from the corner of Steel and Hunter Streets. Exiting hoardings / fencing are located along both street frontages.

Photograph 2 – Looking west from Steel Street. The southern boundary is on the left. Looking towards the western boundary. The former Empire Hotel was demolished in recent years.

Photograph 3 – Looking north west from Steel Street. Only concrete flooring remains of the former building.

Photograph 4 – Looking north along the Steel Street boundary (right) toward the Hunter Street boundary.

Photograph 5 – View from the south east corner towards adjoining uses to the west.

3.2 Land to the North

Land uses on the northern side of Hunter Street include takeaway food premises, commercial and tourist and visitor accommodation with built form of between two and five storeys. Further to the north is the rail line which is currently in transition from heavy to light rail and beyond that is Honeysuckle precinct and Newcastle Harbour. Photos 6 and 7 indicate the nature of land uses to the north.

Photograph 6 – NSW Health building located on the north east corner of the Hunter Street / Steel Street intersection. Medical services and administration is undertaken from the site.

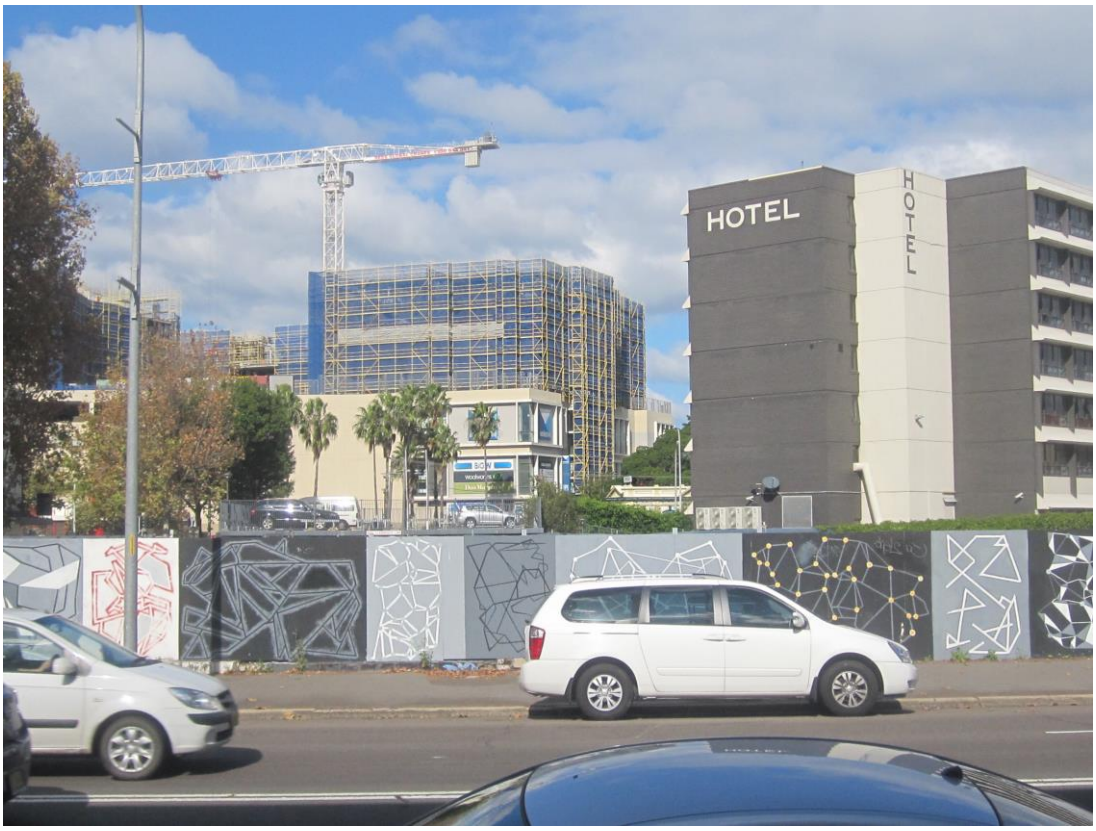
Photograph 7 – Takeaway food premises located on the north western corner of the Hunter Street / Steel Street intersection.

3.3 Land to the South

A hotel (tourist and visitor accommodation) is located immediately to the south of the site. Further south is a mix of commercial, retail, takeaway food premises and residential uses. Built form is varied and is undergoing transformation to accommodate higher density residential use. Photos 8 – 10 indicate the nature of land uses to the south.

Photograph 8 – Hotel (tourist and visitor accommodation) to the south of the site. Hotel is oriented to the south east.

Photograph 9 – Relationship between the site and hotel to the south



Photograph 10 – Looking south from the Hunter Street frontage toward the hotel and commercial and residential development

3.4 Land to the East

Land on the eastern side of Steel Street is predominately commercial uses and includes a licensed premise, motel, takeaway food premises and sex services premises. Further east is a mix of retail, shop top housing, recreation facility (indoor) and serviced apartments. Photos 11 – 13 indicate the nature of land uses to the east.

Photograph 11 – Commercial premise on the eastern side of Steel Street.

Photograph 12 – Sex services premise, retail, takeaway food premise and licenced premise on the eastern side of Steel Street.

Photograph 13 – Tourist and visitor accommodation (may operate as a licenced premise).

3.5 Land to the West

Bounding the site to the west is a two storey commercial building. Further west is a mix of commercial and retail uses as well as a place of public worship. Photos 14 and 15 indicate the nature of land uses to the west.

Photograph 14 – Two storey commercial premise directly west of the site.

Photograph 15 – Mix of built form and land uses west of the site.

3.6 Overview

The general character of the surrounding area is shown in the aerial photo in **Appendix 2** and the photographs above. The site is located within Newcastle West which is a high growth precinct. The locality is currently characterised by a varied mix of building types and uses but is undergoing significant transformation, particularly in light of recent investment in the Wickham Interchange and light rail projects.

4. STATUTORY PLANNING CONTROLS

4.1 Relevant State Environmental Planning Policies

4.1.1 State Environmental Planning Policy No 65 – Design Quality of Residential Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Development (SEPP 65) aims to improve the quality of residential apartment development in New South Wales. SEPP 65 applies to mixed use developments with a residential accommodation component if it consists of a new building that is at least 3 or more storeys and the building concerned contains at least 4 or more dwellings. In this regard SEPP 65 applies to the proposed development.

SEPP 65 sets out design quality principles for residential flat buildings. A Design Verification Statement prepared by EJE is provided in **Appendix 7** which addresses each of the nine design principles in detail.

The proposed development will be reviewed by Newcastle City Council's UDCG for assessment against the SEPP 65 design principles during the DA assessment process.

4.1.2 State Environmental Planning Policy No 71 – Coastal Protection

The site is within the coastal zone. Clause 8 of SEPP 71 presents matters to be considered by Council in determining a DA. Matters under Clause 8 are addressed in Table below.

Clause	Response
(a) the aims of this Policy set out in clause 2.	The development encourages appropriate use of the site and provides a sympathetic development for the area when considering the existing and future environment, as such it is in keeping with the aims of the policy.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	Public access, including disabled access, will not be affected by the development. Whilst not immediately on any foreshore, existing public access along Hunter and Steel Streets will be retained.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The development provides a new purpose built mixed use building in an area identified for such commercial and residential activities. Public access to the foreshore will not be impacted on by the proposal. It will allow additional residents to live in close proximity to the foreshore.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area.	The development encourages interaction with existing land uses through effective streetscape design. It will provide an increase in population in close proximity to existing infrastructure and services.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposed buildings are architecturally designed and will provide additional amenity and views of the area and will not impact on any foreshore area.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposed buildings will provide a new residential building that will provide access to and not detract from any limited coastal views. The existing commercial and residential environment combined with the existing vacant site results in a generally degraded visual environment.
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	The proposed development will not impact on any lands of environmental significance.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within	The proposal is development of a site located in the city that has

the meaning of that Part), and their habitats.	been vacant and is removed from any waterways.
(i) existing wildlife corridors and the impact of development on these corridors.	The proposal is development of a commercial site with no environmental qualities.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The development will not impact on, or be impacted by, coastal processes and hazards.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities.	The development is sufficiently removed from the foreshore to avoid land use conflicts.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The development is not likely to impact on Aboriginal heritage.
(m) likely impacts of development on the water quality of coastal water bodies.	The development will appropriately manage storm water and will not impact on coastal water bodies.
(n) the conservation and preservation of items of heritage, archaeological or historic significance.	The development is not likely to impact on non-Aboriginal heritage, a Statement of Heritage Impact has been prepared and located in Appendix 17.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	The development encourages appropriate land use and will have minimal environmental impact.
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	The development will have negligible cumulative impact. A BASIX certificate has been prepared to address water and energy use.

4.1.3 State Environmental Planning Policy (Affordable Rental Housing) 2009

State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 aims, inter alia, to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, to facilitate an expanded role for not-for-profit-providers of affordable rental housing, and to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

While the proposal does not seek approval pursuant to the SEPP (Affordable Rental Housing), it has been designed to comply with the SEPP, with the intention that a proportion of the units will be made available to the community as affordable rental housing. The applicant intends to lease a portion the properties to eligible persons through a social housing provider.

The development substantially complies with relevant standards for infill housing as defined in the SEPP.

4.1.4 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) aims to, *inter alia*, identify matters to be considered in the assessment of development adjacent to particular types of infrastructure.

Division 15 Railways of SEPP Infrastructure) relates to railways. *Clause 87 Impact of rail noise or vibration on non-rail development* applies to certain development, including a building for residential use, that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration. The site is located approximately 86 metres from the nearest rail track which as recently ceased in

operation. Nonetheless, an assessment of the impact of rail noise on the proposed development is provided in Section 5.3 of this SEE.

The Infrastructure SEPP requires other certain development to consult with and obtain concurrence from the rail authority:

- Clause 84 - Development that involves: a new level crossing; the conversion into a public road of a private access road across a level crossing; or a likely significant increase in the total number of vehicles or the number of trucks using a level crossing that is in the vicinity of the development
- Clause 86 - Development (other than development referred to in clause 88 of the Infrastructure SEPP) that involves penetration of the ground to a depth of at least 2m below ground level (existing) on land that is: within or above a rail corridor; within 25 metres (measured horizontally) of a rail corridor, or within 25 metres (measured horizontally) of the ground directly above an underground rail corridor.

The proposed development does not require concurrence of a rail authority as it is not development listed above.

Schedule 3 of SEPP Infrastructure sets out Traffic Generating Development to be referred to the Roads and Maritime Services (RMS). The proposal does not require referral to the RMS under the SEPP Infrastructure as the proposal includes 135 off street parking spaces which is less than the 200 motor vehicles specified as Traffic Generating Development.

The development has considered the guidelines Development near Rail Corridors and Busy Roads - Interim Guidelines 2008. Further information is provided in section 5.3 of this SEE.

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

BASIX certificates have been prepared in support of the proposed development and are included at **Appendix 12**. BASIX requirements of the proposal's construction and ongoing energy/sustainability needs have been appropriately considered.

4.2 Local Planning Controls

4.2.1 Newcastle Local Environmental Plan 2012

The Newcastle Local Environmental Plan 2012 (LEP) provides a planning framework to facilitate development in an appropriate manner with due consideration to ecologically sustainable development. Relevant Clauses of the LEP are discussed in Table 4.2.

Table 4.2.1 Consistency with LEP 2012

Clause	Consistency
1.2 Aims	The LEP provides for appropriate development within the LGA. The proposal has given due consideration to the site and surrounds and is in keeping with the aims of the LEP.
2.1 Land use zones	The site is zoned B3 Commercial Core Zone. The proposal is *shop top housing* which is permitted with consent in the zone and is defined as: ***shop top housing*** means one or more dwellings located above ground floor retail premises or business premises. **Note.** Shop top housing is a type of ***residential accommodation***—see the definition of that term in this Dictionary.
2.3 Zone objectives	The objectives of the B3 Commercial Core zone are: • *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.* • *To encourage appropriate employment opportunities in accessible locations.* • *To maximise public transport patronage and encourage walking and cycling.* • *To provide for commercial floor space within a mixed use development.* • *To strengthen the role of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter region.* • *To provide for the retention and creation of view corridors.* The proposal is consistent with the aims and objectives of the zone as it enables an appropriate

	mix of uses that are of a nature and scale that will support the Newcastle West commercial centre. The proposal will also support public transport use given its location near the Newcastle transport interchange.
4.3 Height of buildings	The objectives of the clause are: *(a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,* *(b) to allow reasonable daylight access to all developments and the public domain.* The site is identified on the Height of Buildings Map as having a maximum building height of 60 metres. Height is defined in LEP 2012 as: ***building height*** *(or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.* The height of the proposed development is 48 metres and is in compliance with the LEP.
4.4 Floor space ratio	The ***floor space ratio*** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. The maximum floor space ratio (FSR) for the site as indicated on the Floor Space Ratio Map is 6:1. However, Clause 7.10(2) of LEP 2012 restricts the FSR to 5:1 as described in further detail below. Based on a site area of 2,078m^2 and a proposed GFA of 9,899.8m^2 a FSR of 4.76:1 is proposed. The proposed FSR complies with the LEP standard.
4.6 Exceptions to development standards	Flexibility is provided in the LEP for certain development standards for particular development. The development standards that apply to this proposal are not expressly excluded from the operation of this clause. This application is supported by a written request to vary the setback requirements of Clause 7.9 of the LEP. A written request to vary the standard is outlined in Section 4.2.2 of this SEE.
5.10 Heritage conservation	The objectives of the clause are to: *(a) to conserve the environmental heritage of the City of Newcastle,* *(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,* *(c) to conserve archaeological sites,* *(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.* The site is not listed as an item of heritage significance pursuant to Schedule 5 of LEP 2012 however it is located in the Newcastle city Centre Heritage Conservation Area. The potential impact of the development on the heritage conservation area has been undertaken by a qualified heritage consultant and is outlined in the Heritage Impact Assessment in **Appendix 17** and are outlined in Section 5.4 of this SEE. A basic search of the Aboriginal Heritage Information Management System (AHIMS) administered by the NSW Department of Environment and Heritage indicates that one Aboriginal site is recorded in or near the subject land and no Aboriginal places have been declared in or near the subject land with a buffer of 50m applied. In accordance with the Due Diligence Code of Practice further investigation into potential impact to Aboriginal heritage has been undertaken including an archaeological assessment of the site. The findings are presented in the Heritage Impact Assessment in **Appendix 17** and are outlined in Section 5.4 of this SEE.
6.1 Acid sulfate soils	The site is mapped by Council as containing Class 4 acid sulfate soils (ASS). The proposed development does not propose basement parking and therefore requires minimal disturbance of soil. Council may impose a requirement for further investigation as a condition of development consent.
7.1 Newcastle City Centre Objectives	The site is mapped within the Newcastle City Centre as set out in NLEP 2012. Clause 7.1 sets out the following objectives for Newcastle City Centre: *The objectives of this Part are as follows:* *(a) to promote the economic revitalisation of Newcastle City Centre,* *(b) to strengthen the regional position of Newcastle City Centre as a multi-functional and innovative centre that encourages employment and economic growth,* *(c) to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of Newcastle City Centre, and the quality of life of its local population,* *(d) to promote the employment, residential, recreational and tourism opportunities in Newcastle City Centre,* *(e) to facilitate the development of building design excellence appropriate to a regional city,*

	(f) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Newcastle City Centre achieves sustainable social, economic and environmental outcomes, *(g) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Newcastle City Centre for the benefit of present and future generations,* *(h) to help create a mixed use place, with activity during the day and throughout the evening, so Newcastle City Centre is safe, attractive, inclusive and efficient for its local population and visitors alike.* The proposed development in its current form is consistent with the objectives for Newcastle City Centre. It will promote the revitalisation of Newcastle City Centre and reinforce cultural and residential opportunities close to existing higher order services without impacting on environmentally sensitive areas.
Clause 7.5 Design Excellence (City Centre Provisions)	Clause 7.5(2) sets out that development consent must not be granted for development unless the consent authority considers that the development exhibits design excellence. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters: *(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,* *(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,* *(c) whether the development detrimentally impacts on view corridors identified in the Newcastle City Development Control Plan 2012,* *(d) how the development addresses the following matters:* *(e) heritage issues and streetscape constraints,* *(f) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,* *(g) bulk, massing and modulation of buildings,* *(h) street frontage heights,* *(i) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,* *(j) the achievement of the principles of ecologically sustainable development,* *(k) pedestrian, cycle, vehicular and service access, circulation and requirements,* *(l) the impact on, and any proposed improvements to, the public domain.* The proposed development represents a considered solution to the opportunities and constraints presented by the site and the surrounding context. Each of the matters listed above is addressed throughout the SEE and supporting documentation. It is considered that the proposed development has considered all matters resulting in a positive outcome to the street and surrounding area. Clause 7.5(4) requires an architectural design competition to be held in relation to the following development: (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister for a transitional Part 3A project, (b) development in respect of a building that is, or will be, higher than 48 metres in height, (c) development having a capital value of more than $5,000,000 on a site identified as a "Key Site" and shown edged heavy black and distinctively coloured on the Key Sites Map, (d) development for which the applicant has chosen to have such a competition. Clause 7.5(4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required. The proposed development is less than 48 metres and does not require an architectural design competition to be held in respect of the development. The proposed development will be presented to Council's UDCG as part of the DA process.
7.9 Height of Buildings	The site is located in "Area A" as shown on the Height of Buildings Map. Pursuant to Clause 7.9(2) the height of the building must not exceed a height that is 22 metres above ground level (existing)

	at the boundary of the road frontage of that land on any part of that land that is within 20 metres of the boundary of the road frontage. The proposal includes development within 20 metres of the boundary of the road frontage that exceeds 22 metres in height. A proposal to vary the development standard is provided in Section 4.2.2 of this SEE. Justification for the proposal relates to the overly restrictive nature of the standard having regard to the dual frontage, size of the site, minimal impact of the proposal on view sharing and the standard's relationship to SEPP 65 and other planning controls.
7.10A Floor space ratio for certain other development	The site is located in "Area A" as shown on the Floor Space Ratio Map. The maximum floor space ratio for a building other than a commercial building on land with a site area of 1,500 square metres or more is as follows: (a) where the Floor Space Ratio Map identifies a maximum floor space ratio of 6:1 (or greater)— 5:1, This reduces the FSR to 5:1. The proposed FSR of 4.76:1 complies with Clause 7.10.

4.2.2 Written request to vary the height standard

The following is provided as a written request to satisfy the requirements of Clause 4.6 of LEP 2012. The purpose is to provide justification for a proposed variation to Clause 7.9.

4.2.2.1 Background

Pursuant to Clause 7.9 of Newcastle Local Environmental Plan 2012 (LEP) a height of building on land identified as "Area A" on the Height of Buildings Map" must not exceed a height that is 22 metres above ground level (existing) at the boundary of the road frontage of that land on any part of that land that is within 20 metres of the boundary of the road frontage.

As detailed in this SEE and supporting plans, a height of 21.8 metres is proposed on the Hunter Street boundary. A height of up to 21.8 metres is proposed on the Steel Street boundary. The tower comprising residential apartments is set back from the respective street boundaries. The variation relates to a small portion of the tower which encroaches in the identified 20 metre setback from the road frontage. This encroachment occurs on both Hunter and Steel Streets essentially forms a large component of the tower which has a height of 48 metres. The proposed variation for the elements of the building above 22 metres will result in setbacks varied, but approximately 0.23 metres on Hunter Street and 2.65 metres on Steel Street.

Clause 4.6 of the LEP enables Council to consider a variation to development standards including height limits. The clause provides flexibility in applying certain development standards and aims to achieve better outcomes for and from development by allowing flexibility in particular circumstances. It is relevant to note that the height standard is not expressly excluded by the clause. Clause 4.6(3) requires an applicant to provide written justification for the contravention of the development standard demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

(b) that there are sufficient environmental planning grounds to justify contravening the development standard

This correspondence represents the written justification referred to in sub clause (3).

4.2.2.2 Justification

Clause 4.6(3)(a) requires a request to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case. In considering whether the standard is unreasonable or unnecessary, the objectives of the development standard have been taken into account. The objectives of the standard are:

- to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times,
- to ensure that the built form of Newcastle City Centre develops in a coordinated and cohesive manner,

- to ensure that taller buildings are appropriately located,
- to nominate heights that will provide a transition in built form and land use intensity in Newcastle City Centre,
- to ensure the preservation of view corridors that are significant for historic and urban design reasons.

The development standard is unreasonable and unnecessary for the following reasons:

- There are no parks or community places within the immediate vicinity of the site that would be overshadowed or limited by the proposal. Due to the orientation of the building, the minor variation will not result in the development adversely overshadowing either Hunter Street or Steel Street from that which would occur with a wholly compliant development.
- The height of the proposed thirteen-storey building is such that the proposal comfortably within the natural and built environment context. The proposed variation is minor in nature and will not hinder the coordinated and cohesive development of built form in the Newcastle City Centre. The reduction in the setback on the upper levels enables an appropriate floor plate to ensure quality units and spaces to be provided.
- The proposal has a height of 48 metres which is substantially less than the 60 metres permitted by the LEP. The height of the proposed building is considered to be appropriate within the context the site and its surroundings. The proposal is considered to be suitably located having regard to visual impacts, views to and from the site.
- The proposed height provides a suitable transition to higher density developments in the West End and Wickham. The proposed variation in setback enables the site to be developed providing greater benefits to the area than remaining vacant and assists in achieving strategic outcomes. The variation is required to enable development to occur on site of this nature.
- The proposed variation is unlikely to diminish views to the harbour. Development immediately south of the site is oriented to the north east and south west, the sites immediately to the west when further development will orientate north south and the site to the east is separated Steel Street and as such will not be substantially impacted by the development.

Further to the above matters, the clause does not appear to consider the impact of corners sites where the setback applies to two street frontages.

Clause 4.6(3)(b) requires an applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. The following environmental planning matters have been considered:

- Setbacks – The development substantially complies with the setback requirements of Newcastle DCP 2012 (refer to table 4.2.3 of this SEE) and State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP No.65) (refer to Design Verification Statement in **Appendix 7**).
- Privacy - The siting and design of the proposal results in minimal privacy impacts to neighbours and future residents of the development and substantially complies with the required separation distances in the DCP and SEPP 65. Strict compliance with Clause 7.9 could limit the ability to meet the DCP and SEPP 65 building separation requirements by pushing the built form further toward the southern and western boundaries.
- Solar access / overshadowing - The building siting and orientation, along with limited residential housing in the close proximity of the development will result in limited loss of solar access to adjoining properties. This is shown in the shadow diagrams in **Appendix 7**.
- Landscape – The proposed variation will not impact the proposal's ability to retain the existing street treer within Steel Street. The proposed variation enables additional open space (in the form of private balconies) to be located on the northern and eastern facades.

- Energy and Water Efficiency - The proposed height does not affect compliance with energy and water efficiency ratings. The BASIX assessment of the development (**Appendix 12**) confirms that the proposal can achieve energy and water efficiency targets.
- Orderly and Economic Development of Land - The development promotes the proper and orderly development of land as contemplated by the controls applicable to the zone. The development represents a use that is permissible with consent in the zone, and is consistent with the zone objectives. It is located within an area that is serviced by existing roads and other essential infrastructure. In this regard, the proposal represents the orderly and economic development of land.

4.2.2.3 Summary

The above demonstrates that the proposed variation is minor and will not result in unreasonable impacts to the physical environment, the views or visual quality of the site or the amenity of other buildings. Whilst the intent of the setback clause may be to reduce bulk on lower levels, ensure view corridors and encourage the consolidation of sites, the site is of a size and nature that does not require consolidation, nor does is isolate any smaller parcels or preclude them from future development. The proposal is consistent with the use and built form of surrounding development and will make a positive contribution to the streetscape. The standard also fails to consider the impact to corner sites where the impact on built form is substantially greater than for a site with a single frontage. In this regard, strict compliance with the standard is unreasonable and unnecessary in the circumstances of the proposal and there are sufficient environmental planning grounds to justify the variation.

4.2.3 Newcastle Development Control Plan 2012

Newcastle Development Control 2012 ("DCP") provides guidance to development of land covered by Newcastle LEP 2012, and is intended to act as an integrated planning document in conjunction with the LEP. The DCP includes development specific controls and generally adopts a performance based approach to managing development, providing prescribed objectives, outcomes and recommended responses but allowing some flexibility in responding to controls.

It should be noted that an amendment to the Newcastle Development Control Plan 2012, relating to the planning controls for the Newcastle City Centre, was adopted by the Department of Planning and Environment on 16 September 2014. The amended DCP came into effect on 9 October 2014. The main planning constraints imposed by the DCP on the future development of the site are addressed in the table overleaf.

Table 4.2.3 Compliance with Newcastle DCP 2012

Section	Objectives	Control	Compliance
4.0 Risk Minimisation Provisions			
4.01 Flood Management	Manage risks to property up to an acceptable level of risk (the flood planning level).	Flood Storage Areas 1. Not more than 20% of the area of any development site in a flood storage area is filled. The remaining 80% is generally developed allowing for underfloor storage of floodwater by the use of suspended floor techniques such as pier and beam construction. 2. Where it is proposed to fill development sites, the fill does not impede the flow of ordinary drainage from neighbouring properties, including overland flow. Management of Risk to Property 1. Floor levels of all occupiable rooms not lower than the FPL. 2. Garage floor levels are no lower than the 1% Annual Exceedance Probability Event, or are as high as practicable. 3. N/A 4. Electrical fixtures are above the FPL unless on a separate circuit 5. Where parts of the building are proposed below the flood planning level, they are constructed of water-resistant materials. 6. N/A 7. N/A 8. N/A	A flood certificate was obtained for the subject lot. The development has been designed to comply with the DCP and required floor levels to minimise flood risk. The flood certificate indicates that the site has a mixed flood classification of flood fringe and flood storage. The site is generally clear of the 1% Annual Exceedance Probability (AEP), and is effected by the Probable Maximum Flood (PMF) flood event. The critical flood level in the 1% AEP event is 2.35m AHD whilst the critical flood level in the PMF is 4.15m AHD. The flood certificate specifies a minimum habitable floor level of 2.85m AHD, this has been adopted as the finished floor level for the proposed ground floor tenancy. Flood refuge will be available on upper levels of the development, which are well above the PMF level of 4.15. In order to confirm the impact of the development on flood storage, the volume of storage available below the PMF level for both the proposed developed and undeveloped scenarios has been assessed via 3D surface modelling. The assessment by Northrop confirms that the predeveloped volume of 3,507m3 is reduced to 3,348m3 in the post development scenario, resulting in a reduction in existing flood storage of approximately 7.4%. This is within Councils limits, and is considered to be acceptable. For full details regarding the flood management, refer to the Engineering Report prepared by Northrop Engineers in **Appendix 11**.
4.03 Mine Subsidence	1. Ensure that all developments proposed within an area that is subject to mine subsidence are referred to the Mine Subsidence Board for investigation and approval.	All developments located in areas affected by mine subsidence must have approval from the Mine Subsidence Board prior to lodgement with The City of Newcastle.	The proposal is located within a Mine Subsidence District and will be referred to Mine Subsidence Board as Integrated Development.
4.04 Safety and Security	1. Reduce crime risk and minimise opportunities for crime.	1. Buildings adjacent to public or communal streets or public space are designed to	The development has been designed to address crime prevention through environmental design

Section	Objectives	Control	Compliance
	2. Ensure issues of community safety and crime prevention are adequately considered in land use, development and redevelopment activities. 3. Enhance the safety and security of public and semi-public areas through design. 4. Ensure the design of car parking areas and structures has regard to the safety of users. 5. Provide adequate personal and property security for residents.	allow casual surveillance and have a window from at least one habitable room facing that area. 2. Adequate lighting to all pedestrian paths, shared areas, parking areas and building entries. 3. Shared entries are to serve a maximum of 12 dwellings. 4. Access from car parks to dwellings is direct and safe for residents. 5. Dwellings oriented towards the street with entrances clearly visible.	principles of surveillance, territorial reinforcement, access control and space and activity management. A Crime Prevention Through Environmental Design report is provided in **Appendix 14**. The assessment uses qualitative and quantitative measures of the physical and social environment to analyse and minimise crime opportunity. The assessment reviews the proposed development against Crime Prevention Through Environmental Design (CPTED) principles and provides recommendations for the design, construction and future management practices of the development. The assessment recommends minor inclusions through detailed design phase to ensure safe outcomes.
4.04.02 Crime Risk Assessment	Identify types of development that will require a crime risk assessment.	1. A Crime Risk Assessment is required.	As above. Refer to the Crime Prevention Through Environmental Design Report in **Appendix 14**.
4.05.01 Social Impact	Incorporates practical measure that will enhance the positive impacts, may improve the development and limit and possible negative social impacts.	1. Development Applications comply with the requirement of Social Impact Assessment Policy for Development Applications.	A Social Impact Assessment prepared by Key Insights is provided in **Appendix 13**. The assessment found that the greatest social risk is that the project and the affordable housing opportunities it presents will not proceed. The report acknowledges that the area is well serviced by health and other community services in a location that has easy access to the public transport, government offices, recreational and sporting facilities and cultural institutions. The report identifies a number of potential positive social impacts including: • Affordable access to city living for disadvantaged groups • Provision of 33 accessible apartments • Economic benefits of jobs during construction and increase in demand for local services on completion • Improvement of local amenity and development of a derelict site • Encouragement of alternative transport means through substantial bicycle parking

Section	Objectives	Control	Compliance
			• Community spaces for indoor and outdoor passive recreation Potential negative social impacts of the development are noise, dust and localised disruption during construction which occur with any such proposal and are manageable. The report makes a number of recommendations to maximise the potential positive social impacts and minimise the potential negative impacts which relate primarily to the operation of the affordable housing component post-construction, and the consideration of construction interactions with light rail construction timing.
5.0 Environmental Protection Provisions			
5.01.01 Erosion Prevention	Protect the environment against soil erosion and loss of soil from construction sites and associated impacts.	An erosion and sediment control plan is to comply with 'Managing Urban Stormwater: Soils and Construction' (the 'Blue Book').	An erosion and sediment control plan is provided in **Appendix 11** which complies with 'Managing Urban Stormwater: Soils and Construction'.
5.04.01 Aboriginal Heritage - Due diligence and development assessment	Ensure due diligence is followed before carrying out development that may harm Aboriginal objects. Provide an integrated process for managing Aboriginal cultural heritage in the assessment of development applications.	1. Where a development will disturb the ground surface, provide documentation to satisfy the consent authority that the due diligence process has been followed. The documentation should include (but is not limited to) the following: • A statement indicating the results of the AHIMS database search and any other sources of information considered. • A statement indicating whether there are landscape features that indicate the presence of Aboriginal objects. • A statement indicating whether the proposed development is likely to harm Aboriginal objects. • A statement indicating whether an Aboriginal Heritage Impact Permit (AHIP) is required.	An AHIMS search revealed that one Aboriginal site is recorded within 50 metres of the site. A Statement of Heritage Impact (SoHI) was prepared by EJE in relation to the proposal which identified that: "The potential for a significant archaeological deposit on the site is high, and direction from the National Parks and Wildlife Service and Heritage Council should be sought as to how to manage any deposit present." The SoHI refers to an Archaeological Report prepared by Insite Heritage in 2004 which was prepared for the site with the Empire Hotel building still existing. The full document is included at the end of the SoHI. It concludes: "On the basis of work conducted at nearby 700 Hunter Street the following recommendations are made: **1. A section 87(1) permit be sought from NPWS.** This permit would approve a testing program to determine the character of heritage items on the site. **2. Pursuant to the results the proponent:** (a) could seek a section 90 consent from the Director

Section	Objectives	Control	Compliance
			General of NPWS, with the support of Awabakal Local Aboriginal Land Council and any other community groups identified by NPWS with or without mitigation dependent upon the significance of the findings in stage one. An Archaeological Assessment prepared by Umwelt is underway which will form the required supporting information for an Aboriginal Heritage Impact Permit application and Excavation Permit application to be submitted to Office of Environment and Heritage. The applications will allow for the below ground disturbance of the project area as part of the proposed redevelopment (refer to **Appendix 19**).
5.07 Heritage Conservation Areas	1. Maximise the reuse of existing material on site. 2. Ensure selection of new materials and details compliment the local character.	1. A high proportion of the construction material from the host building are recycled and incorporated in the new additions. 2. The proposal builds on the materials, colours and detail seen throughout the area and which reflect the character of local precincts. 3. The materials palette proposed in an alteration and addition reflects the original design and appearance of the host building. 4. Traditional building elements including windows, doors, hardware, chimneys, verandahs, wall surfaces and other characteristic features of the building, are retained and repaired. 5. Sandblasting is not an acceptable method for cleaning unpainted brickwork or remove paint from brick or stone. 6. Lime mortars are replaced by mortars of similar consistency. Expert advice should be obtained for re-pointing and repair work. 7. External colour schemes are complimentary to the heritage conservation area, are based on research, and have regard of the setting. 8. Exposed brickwork, stone, tiles and shingles are not painted or rendered.	The SoHI prepared by EJE Heritage (**Appendix 17**) provides an assessment of the proposal in the context of the site's contribution to Newcastle's heritage fabric and the impact on the Heritage Conservation Area. The SoHI found: "The current vacant site, with footings in-ground from the hotel material intact, is not a heritage listed site under the Newcastle LEP 2012. Whilst the history of the site is pertinent and critical in its interpretation of the development of the West End of Newcastle, there is no obvious tangible remnant of this history visible or accessible on the site." Furthermore "the vacant site in its existing condition as such has low historical significance, bordering on being intrusive in the context of the greater Heritage Conservation Area. This is reflected in the fact that the site is not a listed Heritage Item in the Newcastle LEP2012." The SoHI concludes that the proposal as such is in keeping with the aims of the DCP regarding the maintaining of Cultural Significance in Heritage Conservation Areas, and recommends that Council allows the application to proceed on these grounds.

Section	Objectives	Control	Compliance
6.0 Locality Specific Provisions			
6.01.02 West End	Character Statement – "This area is the western gateway to Newcastle's city centre and is an area of unrealised potential….The predominance of larger consolidated land holdings and fewer environmental and heritage constraints make this precinct ideally suited to become the future CBD of Newcastle…"	Principles - West End (a) New public spaces are created and existing public open spaces are improved. (b) Birdwood Park is an important element in the public domain network and 'gateway' to the city centre. (c) New development fronting Birdwood Park addresses the park edge. (d) Development along the rail corridor, Cottage Creek, lanes or through-site links provide a building address to encourage activity, pedestrian and cycleway movement, and improve safety. (e) Building entries are inviting with activate frontages that allow visual permeability from the street to within the building. (f) Distinctive early industrial, warehouse and retail buildings are retained and re-purposed. (g) Heritage items and their setting are protected	The proposal is consistent with the desired future character of the area by contributing to the mix of uses, providing building entries (both street frontages) that are inviting, activate the street and provide a safe and attractive environment particularly for pedestrians and cyclists. The proposal acknowledges the historical use of the site through the naming of the building.
6.01.03 General Controls **A1 Street Wall Heights**	Street wall heights of new buildings define and enclose the street, are appropriately scaled and respond to adjacent development	a) New buildings have a street wall height of 16m unless indicated otherwise in Figure 6.01-11. b) Any development above the street wall height is set back a minimum of 6m, as shown in Figure 6.01-12. c) Corner sites may be emphasised by design elements that incorporate some additional height above the nominated street height.	A street wall height of approximately 21m is proposed to Hunter Street. A variable street wall height (ranging from 12m to 21m) to Steel Street is proposed. Development above the street wall height is setback a minimum of approximately 3m from the Hunter Street boundary and approximately 5.5m from Steel Street. Whilst there are some increased heights on Hunter Street, the nature of the site, its location, surrounding development and built form ensure this increase in height on the street does not adversely impact on the existing street, surrounding development or potential future development. The site is located on a significant corner on the southern side of Hunter Street, the street still benefits from generous amounts of solar access, and areas within Steel street too are not adversely impacted on. The street trees to be retained within Steel street and separation from adjoining buildings due to Steel street and the existing

Section	Objectives	Control	Compliance
			Travelodge Building setback from the proposed development. The reduced setbacks only represent 4 metres along the Hunter/Steel St corner on a building that is 48 metres in height.
A2 Building Setbacks	Building setbacks define and address the street and public domain spaces, and respond to adjacent buildings	a) Front setbacks are nil (zero) unless shown otherwise in Figure 6.01-13 and Table 6.01-1. b) Where it is not possible to meet the setbacks in Figure 6.01-13 and Table 6.01-1 new development aligns with the adjoining front setbacks. c) When a setback is used, footpaths, steps, ramps and the like may be provided within it. d) Minor projections beyond the setback are possible for Juliette balconies, sun shading devices, and awnings. e) Projections into the setbacks are complementary to the style and character of adjoining buildings.	Below street wall height, front setback nil to both street frontages. Ground floor awnings are proposed beyond the setback. Projections including metal and display screens are proposed on the front setback of levels 1 – 2 (to screen parking).
	Side and rear setbacks enhance amenity and allow for ventilation, daylight access, view sharing and privacy for adjoining buildings.	a) Development may be built to the side and rear boundary (a nil setback) below the street wall height. b) Commercial development above street wall height is consistent with the side and rear setbacks outlined in Table 6.01-1 and Figure 6.01-14.	On the western boundary, zero setback is proposed for the ground floor and Levels 1-2. A variable setback of 0m - 13.125m to the western boundary is proposed for levels 3-5. Levels 6-13 provide a 12 metre setback from the western boundary. On the southern boundary, a setback of 0m to the boundary is proposed for the ground floor and levels 1-2. Level 3 has a variable setback of between 0m and 6m. Levels 4 -13 are setback 6m from the southern boundary. Setbacks comply with Table 6.01-1 of the DCP, provide appropriate floor space to the building and provide visual and aesthetic features.
A3 Building Separation	Sites that accommodate more than one building achieve adequate daylight , ventilation, outlook, view sharing and privacy for each building	a) Buildings achieve the minimum building separation for commercial buildings within the same site, as shown in Table 6.01-2 and Figure 6.01-15. b) Building separation distances may be longer for residential and mixed-use developments to satisfy SEPP65 guidelines. Table 6.01-2 requires building separation of 6 metres for development up to 12 metres in height and 9 metres separation for development between 12 metres	A 13m setback from the western boundary is proposed. The setbacks provide compliance with the separation distances identified in the SEPP 65 Guidelines.

Section	Objectives	Control	Compliance
		and 45 metres in height. The development complies with the DCP requirement for a 6 metre setback to the rear (southern) boundary in order to achieve the separation distances outlined in Table 6.01-2 and Figure 6.01-15.	
A5 Building exteriors	Building Exteriors feature high quality design with robust materials and finishes	a) Materials and finishes complement the character of the precinct. b) External walls are constructed of high quality and durable materials and finishes with low maintenance attributes such as face brickwork, rendered brickwork, stone, concrete and glass. c) An exterior material and finishes sample board and schedule shall be submitted with development application to show the quality of the materials proposed.	The building incorporates a range of high quality and durable finishes including metal composite cladding (wood look) features to the Steel Street façade, rendered blockwork, powdercoated fixed and operable aluminium louvres, glass façade panels and glass balustrades. The car park levels will be screened using a combination of woven metal mesh and perforated aluminium façade panels. Extensive glazing is proposed for the ground floor commercial unit. Further details are provided in the Architectural Plans in **Appendix 6** and the SEPP 65 Design Verification report at **Appendix 7.**
	Building exteriors are designed to ensure a positive contribution to streets and public spaces	a) Building exteriors clearly define the adjoining streets, street corners and public spaces, designed with safety in mind and easy to navigate for pedestrians. b) Where development exposes a blank wall a visually interesting treatment is applied to the exposed wall. c) Balconies and terraces are provided where buildings overlook parks and squares to contribute to casual surveillance. d) External building facade lighting is integrated with the design of the building and contributes to the character of the building and surrounding area.	The buildings clearly define the street with a zero street setback that will enliven the street and create formal and informal interaction between occupants and the external space. Balconies will facilitate a good degree of passive surveillance over the public domain and enhance the living arrangements within the building. The external façade of the new building is appropriately articulated and textured and when coupled with proposed landscaping will make a positive visual contribution to the public domain.
A8 Design of Parking Structures	At grade or above-ground parking structures are well designed	Proposed at-grade or above-ground parking structures are to be reviewed and endorsed by Council's Urban Design Consultative Group as: • having fulfilled the requirements of Newcastle DCP 2012 Section 7.03.04 Clause B Parking areas and structures • being well designed and well integrated with the streetscape and ground plane of the particular site	Parking is provided at Levels 1-2, accessible by two double lane ramps located on the southern end of the Steel Street facade. Parking is appropriately screened and articulated so as to providing a high level of visual integration with the street. Screening treatments include the use of woven metal mesh and Aluminium façade panels anodised (perforated).

Section	Objectives	Control	Compliance
		and minimise the visual impact of parking structures • Consultative Group confirms that development meets the performance criteria.	A Traffic Impact Assessment prepared by Seca Solutions and provided in **Appendix 9** reviews the proposal's compliance with Australian standards and the DCP. It found: "the site access on Steel Street will allow for safe and appropriate access to the subject site, with good visibility available for drivers entering and exiting the subject site. The layout of the driveway and internal ramps allows for two way traffic movements in accordance with AS2890 and the internal layout has been checked with Autoturn to demonstrate that these movements can be achieved. The loading dock on the ground level will allow for light vehicle access only, with the site only requiring servicing by small vans and utility vehicles. There is no requirement for any trucks to access the site, given the type of development and the floor area for the commercial development."
	Minimise the visual impact of at grade or above-ground parking structures	a) Proposed at-grade or above-ground parking structures are to be reviewed and endorsed by Council's Urban Design Consultative Group as: • having fulfilled the requirements of Newcastle DCP 2012 Section 7.03.04 Clause B Parking areas and structures; • being well designed and well integrated with the streetscape and ground plane of the particular site and minimise the visual impact of parking structures • Consultative Group confirms that development meets the performance criteria. b) All parking is provided within the building footprint either within basements or well integrated into the building's design using materials and architectural façade treatments that are common to the rest of the development. c) Where on-site parking cannot be provided within the building footprint it is located to the side or rear and not visible from the primary street frontage. d) Access to above ground car parking is located in side or rear streets or lanes.	Access to the parking structure is via double lane driveways. The visual impact of the driveways is considered to be minimal. Access to parking is via Steel Street. The layout of the driveway and internal ramps allows for two way traffic movements in accordance with AS2890 and the internal layout has been checked with Autoturn to demonstrate that these movements can be achieved. The visual impact of parking is minimised through a combination of materials and finishes including decorative screening. The car parking structure is built to all boundaries to achieve parking and internal circulation areas.

Section	Objectives	Control	Compliance
		e) At-grade or above-ground car parking is screened from view from public spaces. Design solutions include: • green walls and roofs • solar panels incorporated into screens and awnings over car parking • architecturally designed façade treatments that incorporate artworks • using car park roof tops for community facilities such as tennis courts • sleeved by active and/or other uses as per Figure 6.01-17 and Figure 6.01-18.	
6.03.06 Reducing ecological demand (R.E.D zone)	A Efficient Energy A Efficient Energy B. Lighting C. Appliances D. Heating and cooling E. Common areas F. Personal mobility G. Water management	Various Controls	The BASIX assessment provided in **Appendix 12** demonstrates compliance with energy efficiency requirements. Personal mobility is addressed in the BCA compliance assessment in **Appendix 18**. Personal mobility is addressed in the BCA compliance assessment. Access for people with a disability is required from the street, through the main entry, to and within all areas normally occupied in the commercial area on the ground floor. The plans comply in this regard. Access for people with a disability is also required from the street, through the main entry and to the entrance doorway of each residential sole-occupancy unit and to the community room on Level 3; as well as to and from the accessible car parking spaces. The plans are capable of compliance.
	H. Building design and materials 1. Utilise sustainable building materials and design solutions to minimise energy use and reduce the ecological footprint of proposed development.	1. Natural ventilation or active solar design is to be utilised wherever possible. 2. Proposed dwellings, particularly rooms accommodating living areas, are to be oriented to the north. 3. Larger windows are to be located on the northern side of dwellings where they are exposed to the lower winter sun but can be shaded from high summer sun. 4. East and west facing windows are to be minimised and/or shaded from the summer sun. 5. Heat loss is to be minimised by awnings, shutters or	As above.

Section	Objectives	Control	Compliance
		double-glazing. 6. Roof and wall insulation is to be provided to reduce unwanted heat loss or heat gain through the roof, ceiling and walls. Insulation is to be at least to the recommended level of AS Z627- 1993. 7. Where possible air vents that maximise acoustic privacy are to be utilised. 8. Access to natural light is to be optimised to reduce the amount of energy used to run artificial lighting (limiting the internal depth of the building allows efficient use of natural light and cross ventilation).	
	I. Public and outdoor spaces 1. Reduce energy demand by minimising unnecessary lighting. 2. Utilise smart technology to ensure that public areas are well lit and safe during periods of likely use.	1. All lighting in public spaces is to be designed for the purpose with the use of LED lighting, compact fluorescent, solar powered lighting and automatic switching devices encouraged.	Details to be provided at CC stage. However in accordance with CPTED recommendations lighting will be considered to provide safe and acceptable lighting provision.
7.0 Building Design Criteria			
7.01.01 Height of Buildings	1. Ensure the scale of development enhances and makes a positive contribution towards the desired built form by reinforcing the established centres hierarchy. 2. Allow reasonable daylight access to all developments and the public domain.	60m	The proposal has a height of 48 metres and complies with the height provision.
7.01.02 – Floor Space Ratio	Provide an appropriate density of development consistent with the established centres hierarchy. 2. Ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the centres hierarchy.	6:1	The proposed development has a proposed FSR of 4.76:1 based on the following: Site area: 2,078 m^2 Proposed GFA: 9,899.8m^2 Clause 7.10 of the LEP restricts the FSR to 5:1. The development complies with FSR requirements.
7.01.04 - Streetscape and Front Setbacks	1. Ensure adequate visual privacy to dwellings from the street. 2. Ensure new development provides for landscaping to the street. 3. Ensure new development makes a positive contribution to the local context.	1. Front setbacks are consistent with those of adjoining development.	N/A The section applies to development of residential zoned land.
7.01.05 - Side and Rear Setbacks	1. Enable flexibility in the siting of buildings and the provision of side and rear setbacks.	(a) a minimum side or rear boundary setback of 1m for walls up to 3m in height unless the wall is built to the	N/A The section applies to development of

Section	Objectives	Control	Compliance
	2. Ensure adequate natural light, ventilation, privacy and view sharing between buildings. 3. Ensure bulk and scale is reduced by progressively increased setbacks as wall height increases. 4. Ensure building bulk is generally distributed to reduce impact on neighbours and the public street. 5. Ensure buildings are related to land form, with minimal cut and fill.	boundary. (b) a minimum side boundary setback of 2m for walls over 3m in height but less than 6m unless the wall is built to the boundary (c) a minimum rear boundary setback of 2m for walls over 3m in height but less than 6m (d) the building is set back 4m from the side or rear boundary for that part of the wall over 6m.	residential zoned land.
7.01.06 – Open Space	1. Ensure open space provided for dwellings is usable and meets requirements for privacy, safety, access, outdoor activities, service functions and landscaping. 2. Ensure open space is located to take account of outlook, natural features of the site and neighbouring buildings or public open space.	Balconies should be greater than $6m^2$ and have direct access from the main living area of the dwelling.	$6m^2$ or greater balconies are provided for individual units and are linked to the main living area of each dwelling.
7.01.08 – Solar Access	1. Ensure new dwellings have adequate sunlight to habitable rooms and private open spaces. 2. Ensure developments do not significantly overshadow living rooms and private open spaces of adjacent dwellings.	1. Dwellings are orientated with the main indoor and outdoor living spaces and major window areas facing towards the north and east. 2. The windows of living areas of dwellings facing north receive at least three hours of sunlight between 9am and 3pm on 21 June. 3. New buildings maintain at least 3 hours of sunlight to the windows of living areas that face north in existing adjacent dwellings between 9am and 3pm on 21 June. 4. The principal area of ground level private open space of adjacent dwellings receives at least two hours of sunlight between 9am and 3pm to 21 June. Where existing overshadowing by buildings and fences is greater than this, existing sunlight is not unreasonably reduced. 5. The following measures may be required to reduce overshadowing: (a) the building re-sited or setbacks increased (b) heights reduced (c) amendment of roof designs. 6. Buildings are designed, wherever possible, to include a north facing roof where a solar hot water system or collector can be installed.	The development siting/orientation of living areas, private space and units in general have been largely considered in order to provide all the units with appropriate year round solar access to limit the reliance on artificial lighting, cooling and heating. The design has also focussed on providing units with cross ventilation where possible.

Section	Objectives	Control	Compliance
7.01.09 – Views and Privacy	1. Encourage the sharing of views while not restricting the reasonable development potential of a site. 2. Ensure adequate visual and acoustic privacy for proposed and existing dwellings.	1. Properties are able to be developed within the established planning guidelines however; existing views from dwellings are not substantially affected where it is reasonable to design for the sharing of views. 2. Direct views between living area windows of adjacent dwellings are screened or obscured where: (a) Ground and first floor windows are within an area described by taking a 9m radius from any part of the window of the adjacent dwelling. An area so defined is described as a 'privacy sensitive zone'. (b) Other floor windows are within a 'privacy sensitive zone' described by a 12m radius. 3. Direct views from living rooms of dwellings into the principal area of private open space of other dwellings are screened or obscured within a 'privacy sensitive zone' described by a 12m radius. 4. Direct views described in (5) and (6) may be obscured by one of the following measures: (a) 1.8m high solid fences and walls between ground floor level windows and adjoining open space, where the slope is below 10% (b) screening that has a maximum area of 25% openings, is permanently fixed and is made of durable materials (c) landscape screening either by existing dense vegetation or new planting that can achieve a 75% screening effectiveness within three years. 5. Parking areas, shared driveways, streets, active recreational areas and service equipment have a minimum line of sight separation of 3m from bedroom windows. 6. Living area windows have a minimum line of sight separation of 3m from bedroom windows of adjacent dwellings. 7. Shared walls and floors between dwellings are constructed to limit noise transmission.	The proposal is likely to have a minimal impact on existing views from the property to the south or any surrounding low rise development. It is relevant to note that the existing building to the south is orientated to the north west/ south east direction and generally not toward the subject site. In addition, the proposal is consistent with zoning, height and FSR provisions as well as DCP and SEPP 65 guidelines. The use is permissible with consent in the zone. The scale of development is appropriate to the site and achieves desired future character objectives for area. Any future development of the site is likely to result in similar impacts. Units within the development have been spaced and oriented to maximise internal privacy and reduce overlooking of potential future adjoining development. Landscaping details are provided in **Appendix 8**.
7.01.11 – Utilities and Services	1. Ensure site facilities, such as garbage and	1. Individual mail boxes are located close to each	Mailboxes are provided adjacent to the main

Section	Objectives	Control	Compliance
	recycling bin enclosures, recycling bins, mail boxes, clothes drying areas, external storage facilities, exterior lighting and signage are designed to be conveniently reached and require minimal maintenance. 2. Ensure facilities are visually attractive and blend in with the streetscape.	ground floor dwelling entry, or a mail box structure located close to the major pedestrian entry to the site and complying with the requirements of Australia Post. 2. Bin storage areas are roofed and designed to conceal contents from view from adjacent public space and/or other properties.	pedestrian entry to the site. A bin storage area is provided within the ground floor parking area.
7.02 Landscaping, Open Space and Visual Amenity			
7.02.02 – General Controls	Provide an area on sites where appropriate that enables soft landscape and deep soil planting that permit the retention and/or planting of trees and shrubs that will grow to a large or medium size. 2. Ensure areas of significant vegetation are maintained and protected. 3. Retain habitat for native fauna. 4. Ensure the character of development is appropriate for the local environmental context and the landscape character of the setting. 5. Ensure consideration is given to the impact which development may have on adjoining properties.	1. Landscaping is in scale and context with the proposed development, street reserve width, other buildings and landscape elements within the streetscape, ie. it is not appropriate to plant a large tree in the front garden of a small terrace or to landscape a large industrial structure with ground covers. 2. Existing trees and vegetation should be preserved particularly street trees and those within the front setback. The existing tree canopy is retained and enhanced wherever possible. 3. Where possible integrate on-site stormwater management with the design of landscaped areas. 4. Plant species are selected and located to avoid structures, services and paths. 5. Undesirable species are not selected 6. Deep soil zones are optimised within a site by: (a) the design of basement and sub-basement car parking, so as not to fully cover the site and conflict with tree planting (b) ensuring appropriate front and side setbacks are provided for tree planting (c) that the soil profile is free draining (d) works, excavations, infrastructure, services and drainage pipes are located away from the deep soil zone (e) optimise the extent of deep soil zones beyond the site boundaries by locating them contiguous with the deep soil zones of adjacent properties. 7. Landscape treatment within the front setback is substantial enough to enhance the appearance and integration of the development with the streetscape. 8. Landscape design responds to user requirements, taking into account maintenance, social /	The development is defined as Category 3 (greater than 10 units) under Council's DCP. A landscape concept plan and design report prepared by Terras is included at **Appendix 8.** The concept plan described the landscaping as follows: Public domain improvements at street level in the form of pavement treatments consistent with Council Civic Improvements plan as well as the retention of the existing trees in Steel Street. Planting on the upper levels occurs both within private and communal areas. Communal areas are provide with deeper substantial planting of durable trees and plants, whilst other areas enjoy a combination of planter boxes and raised garden beds

Section	Objectives	Control	Compliance
		recreational needs and aesthetic quality. 9. Plant species are suitable for site conditions, using native species where possible, and local indigenous species adjoining environmentally sensitive sites, such as waterways and bushland. 10. Landscape design is used to enhance the amenity and energy efficiency of the development where possible by providing shade to the northerly and westerly elevations of buildings in summer and adequate solar access in winter. 11. Landscape areas to address privacy issues between dwellings.	
7.03.01 Traffic Studies and Plans		Development proposals which, in the opinion of Council, may cause significant impacts on the surrounding movement network are supported by a Traffic Impact Study, prepared by a suitably qualified and experienced transport professional. SEE to address parking facilities, numbers, locations, arrangement, access, compliance with design standards, identification of public transport services, stops and shelters, traffic generation, impacts and management measures.	A Traffic, Parking and Access Strategy providing an assessment of impact on local traffic conditions including existing surrounding intersections was undertaken by Seca Solutions and is provided in **Appendix 9.** The assessment states: "The site access is located on Steel Street, with traffic signals within 50 metres of the site access. The operation of these traffic signals has been assessed with Sidra, based upon the current traffic numbers surveyed as part of this project and confirm that the current traffic signals operate well with acceptable delays and congestion. The Technical Paper prepared by Transport for NSW for the light rail project confirms this modelling output. The additional traffic flows generated by the development could be in the order of 69 in the AM peak period and 42 in the PM peak period, based upon the advice provided within the RMS Guide to Traffic Generating Developments and some 586 vehicle movements per day. The impact of these additional traffic flows has been assessed for the peak periods with Sidra and it can be seen that the additional traffic generated by the development will have a minimal impact upon the immediate signal controlled intersections on Steel Street."
7.03.02 – Parking Provision		Residential Small- <75m^2 or 1 bedroom –	The Traffic, Parking and Access Strategy in **Appendix 9** reviews the parking requirements of the development: The report found:

Section	Objectives	Control	Compliance
		0.6 spaces per dwelling Medium 75m^2-100m^2 or two bedroom – 0.9 spaces per dwelling Large >100m2 or 3 bedrooms – 1.4 spaces per dwelling 1 space for first three dwellings plus 1 space for every 5 thereafter or part thereof for visitors Commercial = 4 spaces	The development generates a demand for 103-136 parking spaces on site (having consideration for SEPP 65 and DCP 2012). The proposed supply is 136 spaces. This is consistent with the total required under the DCP and 33 less than that required by the application of the RMS Guide rates under the SEPP. The demand for motor bike parking would be to provide 5-7 spaces. The provision of 15 dedicated motor bike spaces caters for the parking on site and allows for both residential demands as well as for visitors and employees to the site. The bicycle parking demand is 145 bike parking spaces. 49 spaces are provided.
7.03.04 Design and layout of parking and access	1. Ensure that car parking areas and/or structures are well-sited and designed as an integrated component of the total development.	1.Parking facilities are sited and designed to be properly integrated within the overall development/building to minimise their visual impact and any adverse impact on the continuity and amenity of street frontages. 2. Parking is located so that it is within a reasonable distance of access to the premises it serves. 3. Parking spaces are not positioned so as to obstruct access to the premises by pedestrians or cyclists. 4. Loading areas are situated so that when in use, they do not interfere with pedestrian, cyclist or vehicular circulation. 5. Generally, car parking structures are set back a minimum distance of 5.5m from the street frontage providing access to the car parking space.	The site layout will allow for the safe parking of vehicles within the site. The internal parking spaces have been designed in accordance with AS2890 and the internal circulating ramps / aisles allow for two-way movements with a minimum width of 5.8 metres.
7.05 Energy Efficiency	Residential Development 1. Provide residential development with access to fresh air through cross ventilation. 2. Ensure adequate solar access to dwellings. 3. Minimise energy comfort through higher thermal performance. 4. Provide energy efficient appliances and fittings.	1. Residential developments are carried out in accordance with the requirements set in State Environmental Planning Policy Building Sustainability Index (BASIX) 2004. 2. The dimensions and configurations of residential development support cross ventilation. 3. Maximise the number of apartments that are naturally cross ventilated. 4. Living rooms and private open space to receive a	BASIX certificates are included at **Appendix 12**. The development, siting and orientation has been considered in order to provide all the units with appropriate year round solar access to limit reliance on artificial lighting, cooling and heating. The design has also focussed on providing units with cross ventilation where possible. In addition each unit has access to the outside in

Section	Objectives	Control	Compliance
		minimum of 3 hours direct sunlight between 9am and 3pm on 21 June (winter solstice). 5. Sunlight to any existing solar panels on neighbouring dwellings is not to be reduced to less than 3 hours between 9am and 3pm on 21 June. 6. A section of north facing roof is provided to allow for future installation of solar panels. 7. Optimise natural light access to reduce the amount of energy used to run artificial lighting.	the form of a balcony and large glazed areas off the main living area to reduce reliance on lighting and allow for appropriate ventilation.
7.06 Stormwater	1. Set a minimum standard for the collection and management of stormwater on development sites. 2. Minimise the potential impacts of development and other associated activities on the aesthetic, recreational and ecological values of receiving waters. 3. Prevent pollutants such as litter, sediment, nutrients and oils from entering waterways. 4. Ensure stormwater is controlled in a way that minimises nuisance to neighbouring properties. 5. Ensure appropriate easements are provided over existing drainage systems on private property.	1. A development application or complying development certificate application is to be accompanied by a water management plan. 2. The water management plan should include the following items: (a) the location of all buildings, driveways and impervious surfaces (b) the location of any watercourses or bushland passing through or adjacent to the property (c) any overland flowpaths which drain through the property or adjacent to the property (d) the location, size and depth of easements or drainage pipelines. 3. The water management plan is to show the appropriate design elements to achieve compliance with the requirements set out in the following subclauses: (a) stormwater collection (i) gutters and down pipes are to collect roof water (ii) pits are to collect water from the low points in yards (iii) downpipes and pits are to be connected to the "discharge controls" for the site. .	A Stormwater Management Plan prepared by Northrop is included at **Appendix 11**. It is proposed that this storage will be provided via a combination of re-use and detention tanks. 20kL of above ground re-use will be used to retain stormwater from the proposed upper level roof area. This stormwater will be reticulated to the top story of the residential development to toilets and laundries, and used on upper podium levels for irrigation of landscaped areas.
7.07 Water Efficiency	1. Improve the efficiency of water use and reduce the long term water consumption for residential, business and industrial uses through best practice water use. 2. Encourage the innovation of water efficient technologies and processes.	1. Residential developments are carried out in accordance with the requirements set out in State Environmental Planning Policy Building Sustainability Index (BASIX) 2004.	BASIX certificates are included at **Appendix 12.**
7.08 Waste Management	1. Minimise resource requirements and construction waste through reuse and recycling	1. All development applications (including demolition, construction and the ongoing use of a site/premise) are	A Waste Management Plan has been prepared and is included at **Appendix 15.**

Section	Objectives	Control	Compliance
	and the efficient selection and use of resources. 2. Minimise demolition waste by promoting adaptability in building design and focussing upon end of life deconstruction. 3. Encourage building designs, construction and demolition techniques in general which minimise waste generation. 4. Maximise reuse and recycling of household waste and industrial/commercial waste. 5. Ensure waste management systems are compatible with collection services. 6. Minimise risks associated with waste management at all stages of development.	to include a SWMMP within their Statement of Environmental Effects demonstrating compliance with this section's requirements. 2. In addition to submission of a SWMMP (as part of the Statement of Environmental Effects), the waste management facilities, proposed as part of the development, clearly illustrated on the plans of the proposed development, accompanying the development application (DA). 3. The SWMMP nominates: (a) volume and type of waste and recyclables to be generated (b) storage and treatment of waste and recyclables on site (c) disposal of residual waste and recyclables (d) operational procedures for ongoing waste management once the development is complete. 4. The SWMMP details the method of recycling or disposal and the waste management service provider.	

5. ASSESSMENT OF ENVIRONMENTAL EFFECTS

5.1 Traffic, Access and Parking

5.1.1 Traffic

A Traffic, Parking and Access Strategy prepared by Seca Solutions (refer **Appendix 9)** assessed the development against the RMS Guidelines for traffic generating development. The updated guidelines published by the RMS (TDT 2013 04a dated August 2013) indicates that for a residential development such as that proposal the traffic generation rates during the typical morning and afternoon peak periods are:

- 0.53 per unit in the AM peak
- 0.32 per unit in the PM peak
- 4.58 per unit per day

The assessment found that for the proposed development of 128 units this gives 68 vehicles in the AM peak, 41 in the PM peak and 586 vehicles per day. For the morning peak hour, 85% of the traffic would be outbound (58 vehicles), with the reverse pattern occurring in the PM peak (35 inbound) and the daily flows would be typically equally split between 293 inbound and 293 outbound per day.

The assessment concludes that:

- the traffic flows associated with the proposed development will have a minimal impact on the operation of the Steel and King Street intersection with minimal increases in delays and congestion.
- the traffic flows associated with the proposed development will have a minimal impact on the operation of the Steel and Hunter Street intersection with minimal increases in delays and congestion.

5.1.2 Access and Parking

Newcastle DCP 2012 sets out the following requirements for car parking:

Use	Parking Requirement
Residential	Small- <75m^2 or 1 bedroom – 0.6 spaces per dwelling Medium 75m^2-100m^2 or two bedroom – 0.9 spaces per dwelling Large >100m2 or 3 bedrooms – 1.4 spaces per dwelling Visitor - 1 space for first three dwellings plus 1 space for every 5 thereafter or part thereof for visitors Bike parking - 1 space per dwelling unless separate storage is provided. I space per 10 dwellings (visitors) Motorbike – 1 space per 20 car spaces
Commercial	1 space per 50m^2

The proposed development generates the requirement of:

- 103-136 parking spaces on site (based on SEPP and DCP requirements).
- 5-7 motor bike parking spaces.
- 145 bike parking spaces

The proposed supply is 136 spaces. This is equal to the total required under the DCP and 33 more than that required by the application of the rates under the SEPP Affordable Rental Housing.

The provision of 15 dedicated motor bike spaces caters for the parking on site allows for both residential demands as well as for visitors and employees to the site.

The provision of 49 bicycle parking spaces is considered to be adequate to the development.

Hunter Street provides access to a wide range of bus services with high frequency reflecting its importance as a major transport interchange. There is a bus interchange located to the immediate north of the Newcastle Railway Station with the current rail buses connecting to this.

Train services, currently operating from Hamilton, run every hour during the morning and afternoon peak periods to Sydney and return along the Central Coast and Newcastle Line with more frequent services to Wyong and Gosford servicing local stations from Newcastle to Morisset. Similar services operate between Newcastle and Maitland with less frequent services to Scone and Dungog along the Hunter Line.

The site is located close to the former heavy railway line that served the centre of Newcastle. This railway has been truncated at Wickham, approximately 500 metres from the subject site. As part of the development of the light rail in Newcastle, a train interchange will be provided at Wickham that will allow for connections to the greater train network at this location.

5.1.3 Loading and Servicing

The development will require minimal service vehicle access, with all servicing to be completed by small vans e.g. Toyota HiAce or utility vehicles. Waste collection will be completed by a private contractor with a utility vehicle, as the constraints of the site do not allow for a typical medium rigid truck to enter and exit the site in a forward direction. It is considered that traditional kerb side refuse collection is not desirable in this location, due to the traffic flows and road widths.

The servicing vehicles will only access the ground level of parking via the dedicated access ramp to this level. The Autoturn simulation demonstrates that a light vehicle, typical of those that will service the site, can enter and exit the site in a forward direction, with adequate space in accordance with AS2890 to allow this to occur.

5.2 Utility Services

The land is serviced and presently benefits from reticulated water and sewer, electricity and communication services.

5.3 Noise Impacts

The impact of traffic noise on the proposed development was the subject of an Acoustic Assessment prepared by Spectrum Acoustics (**Appendix 16**). The NSW Road Noise Policy (RNP, 2012), as adopted by the Roads and Maritime Services (RMS) of NSW, recommends various criteria for different road developments and uses. For new residential developments near roads, the RNP advises that land use developers must meet internal noise goals in the Infrastructure SEPP (Department of Planning NSW, 2007). The SEPP (2007) is supported by the Department of Planning guideline "Development near Rail Corridors and Busy Roads – Interim Guideline" (2008) which gives the following internal noise level criteria in Section 3.5:

- In any bedroom in the building: **35 dB(A),L_{eq}** at any time 10pm – 7am, and
- Anywhere else in the building (other than a garage, kitchen, bathroom or hallway): **40dB(A),L_{eq}** at any time.

The report provides recommendations for glazing and insulation to enable the development to achieve the required internal noise level criteria.

5.4 Heritage Impacts

5.4.3 Aboriginal Heritage

An AHIMS search revealed that one Aboriginal site is recorded within 50 metres of the site. A Statement of Heritage Impact (SoHI) was prepared by EJE in relation to the proposal which identified that: "The potential for a significant archaeological deposit on the site is high, and direction from the National Parks and Wildlife Service and Heritage Council should be sought as to how to manage any deposit present."

The SoHI refers to an Archeological Report prepared by Insite Heritage in 2004 which was was prepared for the site with the Empire Hotel building still extant. The full document is included at the end of the SoHI. It concludes: "On the basis of work conducted at nearby 700 Hunter Street the following recommendations are made:

1. A section 87(1) permit be sought from NPWS. This permit would approve a testing program to determine the character of heritage items on the site.
2. Pursuant to the results the proponent: (a) could seek a section 90 consent from the Director General of NPWS, with the support of Awabakal Local Aboriginal Land Council and any other community groups identified by NPWS with or without mitigation dependent upon the significance of the findings in stage one.

An Archaeological Assessment prepared by Umwelt is underway which will form the required supporting information for an Aboriginal Heritage Impact Permit application and Excavation Permit application to be submitted to Office of Environment and Heritage. The applications will allow for the below ground disturbance of the project area as part of the proposed redevelopment (refer to **Appendix 19**). Consultation with Aboriginal parties will occur as part of the process.

5.5 Energy Efficiency and ESD Principles

The proposed design initiatives, which have regard to ESD principles, include the following:

- Passive energy design to reduce heating and cooling costs. This includes good cross ventilation within the buildings, the maximisation of light penetration through the use of well positioned glazing and the use of insulation to reduce heat gain and loss.
- The reduction in energy consumption from mechanical ventilation.
- The use of materials with a low toxicity.

Ecologically Sustainable Development (ESD) principles are required to be taken into account in the preparation and consideration of development proposals pursuant to, *inter alia*, Section 5 of the EP&A Act. Schedule 2 of the EP&A Regulation requires the justification of the development or activity to be carried out in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ESD.

The principles of ESD are not defined in the EP&A Act, but are outlined in Section 6(2) of the *Protection of the Environment Administration Act 1991* as follows:

> *"ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:*
>
> *(a)* ***the precautionary principle****—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*
>
> *In the application of the precautionary principle, public and private decisions should be guided by:*
>
> *(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
>
> *(ii) an assessment of the risk-weighted consequences of various options,"*

No irreversible or serious environmental impacts have been identified and conditions of any development consent granted can incorporate any mitigation and management measures required to incorporate best practice.

> *"(b)* ***inter-generational equity****—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,"*

The design of the proposed development will ensure that the existing environment is protected for future generations.

*"(c) **conservation of biological diversity and ecological integrity**—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,"*

The site comprises developed and disturbed land that is devoid of any ecological significance. It is unlikely that the site will be impacted by changes in sea level resulting from climate change. The site is partially within a flood storage area and the development has been designed to comply with the required floor levels to prevent loss of life or damage to property in the event of flooding. No serious or irreversible environmental impacts have been identified.

*"(d) **improved valuation**, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*

(i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems."

The proposal seeks to provide new residential and commercial development in an existing urban area and will maximise reliance on existing infrastructure in a location close to a range of employment, recreation, education and transport opportunities (in particular the approved transport interchange).

In summary, the proposed development will have a significant long term benefit in terms of its environmental, economic and social benefits. The proposal has been designed and developed in accordance with the four key principles of ESD and appropriate mitigation measures have been identified where necessary.

5.6 Social and Economic Impacts

The City of Newcastle Social Impact Assessment Policy for Development Applications ("the Policy") provides guidelines for assessing the social impacts of development in a locality. The social impacts associated with the proposed development were identified in the Social Impact Assessment prepared by Key Insights (**Appendix 13**) as:

- Potential positive impacts
    - Affordable access to city living for disadvantaged groups within the community and diversification of the local demographic profile.
    - The provision of fully accessible apartments (33 single bedrooms with bathrooms and wheelchair access built to the Standards as well as mobility scooter chargers)
    - Economic benefits associated with jobs during the construction stage and an increase in demand for local services on completion.
    - Contribution to city renewal strategies and planning and policy documents that support diversity, affordability, disabled access and the attraction of residents to the inner city.
    - Conversion of a derelict site and activation of the local streetscape.
    - Significant improvement of local amenity.
    - Catalyst potential for other West End developments.
    - Design that provides for significant bicycle parking.
    - Community spaces for recreation internal to the building; both indoor and outdoor

- Potential negative impacts
    - Noise, dust and localised disruption during construction

The assessment makes a number of recommendations for the operational management of the proposal to maximise the positive impacts of the proposal.

5.7 Crime Prevention Through Environmental Design (CPTED)

5.7.1 Overview

Crime Prevention Through Environmental Design (CPTED) aims to implement techniques and measures to reduce the opportunity for crime associated with new development. A Crime Prevention Through Environmental Design Report is provided in Appendix 14 which uses qualitative and quantitative measures of the physical and social environment to create a contextually adjustable approach to the analysis and treatment of crime opportunity. Recommendations of the report seek to reduce the residual risk of crime occurring within and around the development site. Subject to implementation of the recommendations it is likely that criminal activity will be reduced and the safety of residents, workers and visitors, and the security of their property will be increased.

5.8 Section 79C(1)(a) – Statutory Planning Considerations

In determining the subject DA, Council is required to consider those relevant matters listed in Section 79C(1) of the Environmental Planning and Assessment Act, 1979. Each of the relevant matters is addressed below.

Section 79C(1)(a) requires the consent authority to take into consideration:

> *"(a) the provision of:*
>
> *(i) any environmental planning instrument, and*
>
> *(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft 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*
>
> *(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
>
> *that apply to the land to which the development application relates"*

These matters (and others) are addressed in Sections 4 and 5 of this SEE. No planning agreement that has been entered into between the owner of the site and the Council.

Clauses 92, 93 and 94 of the Environmental Planning and Assessment Regulations 2000 prescribe four matters that must be considered, where relevant, for all DA's. None of these are relevant to the proposed development.

5.9 Section 79C(1)(b) – Environmental, Social and Economic Impacts

Section 79C(1)(b) requires the consent authority to consider:

> *"(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality."*

The relevant matters are addressed below:

5.9.1 Impacts on the Natural Environment

Full details of the natural constraints imposed by the site are provided in Section 2. The site has been found to be suitable for the proposed development. The site presently accommodates developed and disturbed land used for light industrial purposes. The site is located within the City Centre. The proposal is likely to have a positive impact on the natural environment through the introduction of landscaping and by ensuring the development meets energy efficiency objectives.

Sediment fences will be erected around the development zones during construction to control soil erosion.

5.9.2 Impacts on the Built Environment

The proposal comprises 13 storey mixed use development within the City Centre. The proposal will be consistent with the desired future character of the area having consideration for the changing nature of the West End to an area of higher density. The proposed building substantially complies with Council's planning controls (refer sections 4 and 5) and will not have an adverse impact on the built environment by way of overshadowing, overlooking or adverse visual impacts.

5.9.3 Social and Economic Impacts

The new building will have positive social and economic impacts, including the provision of commercial premises and job creation during the construction and operational phase. Significantly, the proposal will provide much needed affordable housing supply within the City Centre. The proposed development will support the long term viability of this centre and will result in increased spending and access to employment in the local area. The focus on creating affordable units will also have a positive social outcome and will contribute to the city's social and demographic mix.

5.9.4 Traffic and Parking Impacts

Traffic and parking impacts have been discussed in Sections 4 and 5 of this report and in the Traffic Parking and Access Strategy at **Appendix 9.**

5.10 Section 79C(1)(c) – The Suitability of the Site

Section 79C(1)(c) requires the consent authority to consider:

> *"(c) the suitability of the site for the development."*

The suitability of the site for the proposed development is dealt with in Section 2 and the site has been found to be eminently suitable for the proposed development. The site is zoned accordingly and is located within an existing city centre.

5.11 Section 79C(1)(d) – Submissions

Section 79C(1)(d) requires the consent authority to consider:

> *"(d) any submissions made in accordance with this Act or the regulations".*

Any relevant representations will need to be considered by the Council in the determination of a future development application.

5.12 Section 79C(1)(e) – Public Interest

Section 79C(1)(e) requires the consent authority to consider:

> *"(e) the public interest".*

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and predominantly in accordance with the prevailing planning controls. As detailed elsewhere in Sections 4 and 5, the proposed development will substantially comply with the relevant planning controls. It will also provide increased residential and commercial premises within the established city centre that is well serviced by public transport and utilities infrastructure. This is considered to be in the public interest.

6. CONCLUSION

The proposal is to construct a 13-storey mixed use development comprising a ground floor commercial tenancy and 128 residential units. A portion of units will be made available as affordable rental housing. The site is located within the Newcastle City Centre – West End which is undergoing significant transformation due to its proximity to the Newcastle transport interchange currently under construction. The proposal brings significant economic and social benefits to the locality including delivering a wider range of affordable housing choice to Newcastle CBD, facilitating job creation in both the construction and service sectors and increased trade and economic activity.

The proposal has been formulated having full and proper regard to existing development controls and to the environmental qualities of the site and its surroundings. It comprises a permissible form of development that substantially complies with the provisions of the relevant environmental planning instruments, as well as the provisions of Council's Development Control Plan.

The proposed development is reasonable and appropriate when considered under the relevant heads of consideration in Section 79C(1) of the *Environmental Planning and Assessment Act, 1979*, and is worthy of favourable consideration by Council.

APPENDICES

APPENDIX 1

Location Plan

APPENDIX 2

Aerial Photo of Locality

APPENDIX 3

Zoning – Newcastle Local Environmental Plan 2012

APPENDIX 4

Height – Newcastle Local Environmental Plan 2012

APPENDIX 5

FSR – Newcastle Local Environmental Plan 2012

APPENDIX 6

Architectural Drawings prepared by EJE Architects

APPENDIX 7

SEPP 65 Design Verification Statement prepared by EJE Architects and Urban Design Analysis

APPENDIX 8

Landscape Masterplan and Landscape Design Report prepared by Terras Landscape Architects

APPENDIX 9

Traffic, Parking and Access Strategy prepared by Seca Solutions

APPENDIX 10

Geotechnical Report prepared by Coffey Geotechnics

APPENDIX 11

Stormwater Management Plan prepared by Northrop Engineers

APPENDIX 12

BASIX Assessment prepared by Building Sustainability Assessments

APPENDIX 13

Social Impact Assessment prepared by Key Insights

APPENDIX 14

Crime Prevention Through Environmental Design Report prepared by de Witt Consulting

APPENDIX 15

Site Waste Minimisation and Management Plan

APPENDIX 16

Acoustic Assessment prepared by Spectrum Acoustics

APPENDIX 17

Statement of Heritage Impact prepared by EJE Heritage

APPENDIX 18

BCA Compliance Report prepared by NewCert

APPENDIX 19

Archaeology Assessment Letter prepared by Umwelt