

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

<b>Panel Reference</b>	2016HCC036
<b>DA Number</b>	2016/00564
<b>Local Government Area</b>	Newcastle
<b>Proposed Development</b>	Erection of 14-storey shop top housing development (128 residential units and ground floor commercial units), two levels of parking (136 spaces) and associated works.
<b>Street Address</b>	643 Hunter Street, Newcastle West
<b>Applicant/Owner</b>	<b>Applicant</b> - Catholic Diocese of Maitland-Newcastle  <b>Owners</b> - Hunter Development Corporation
<b>Date of DA lodgement</b>	26 May 2016
<b>Number of Submissions</b>	None
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	The proposal is listed within Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> , being general development over \$20 million. The development is valued at \$28,851,788.
<b>List of All Relevant s79C(1)(a) Matters</b>	<p><b>Environmental planning instruments: s79C(1)(a)(i)</b></p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development</li> <li>• State Environmental Planning Policy No 64—Advertising and Signage</li> <li>• Newcastle Local Environmental Plan 2012</li> </ul> <p><b>Development Control Plan: s79C(1)(a)(iii)</b></p> <ul style="list-style-type: none"> <li>• Newcastle Development Control Plan 2012</li> <li>• Section 94A Development Contributions Plan 2009</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	<p><b>Appendix A</b> - Conditions of consent</p> <p><b>Appendix B</b> - Documents submitted with the application</p> <p><b>Appendix C</b> - External Referral Comments</p> <p><b>Appendix D</b> - Urban Design Consultative Group Comments</p>
<b>Report by</b>	Newcastle City Council
<b>Report date</b>	2 March 2017

**Summary of s79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	<b>No</b>
<i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	<b>(Has been addressed in the body of the assessment report)</b>

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	<b>No</b>
<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	

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**Conditions**

Have draft conditions been provided to the applicant for comment?	<b>Yes</b>
<i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

Development application No. 2016-00564 has been lodged with Council, seeking consent for:

- Earthworks, excavation and site preparation.
- Construction of a 14-storey, 48 metre high building comprising:
  - 702m<sup>2</sup> of ground floor commercial floor space.
  - 128 residential units over levels 3 to 13 (24 x studio, 33 x 1 bedroom, 68 x 2 bedroom and 3 x 3 bedroom units).
  - Off street parking for 136 vehicles, as well as motorbike and bicycle parking over levels 1 to 2.
- Provision of street trees as well as landscaping associated with the building entrance and roof top terrace.

The proposal was placed on public exhibition for a period of 14 days from 6 June 2016 in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) and Section 8 of Newcastle Development Control Plan 2012. No submissions were received during the notification period.

The key issues raised in the assessment relate to the:

- Bulk, scale and design of the building.
- Public activation at the street level to achieve urban renewal outcomes for the City Centre.
- Relationship of the building to nearby heritage items.
- Traffic impacts and site constraints.

The application is recommended for approval, as the proposed development will provide additional residential accommodation in the City Centre and will generate positive economic and social benefits. The proposed development will assist in the renewal of the western part of the City Centre.

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 '*regional development*' of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposed development is listed within Schedule 4A of the EP&A Act, being general development over \$20 million. The proposed development has a capital investment value of \$28,851,788.

## 1. INTRODUCTION

This report provides a detailed overview of the development proposal for the construction of a 13-storey shop top housing development at 643 Hunter Street, Newcastle West. The development application is reported to the Hunter and Central Coast Joint Regional Planning Panel in accordance with 23G and Schedule 4A EP&A Act, as the development is a type classified under s.3 '*general development over \$20 million*', with the capital investment value of works being \$28,851,788.

## 2. BACKGROUND

Council's Urban Design Consultative Group (UDCG) reviewed the application on 17 June 2016, 26 October 2016 and 15 February 2017, following lodgement of the development application. The Group raised a number of issues regarding the design of the building and the application was amended to address these concerns.

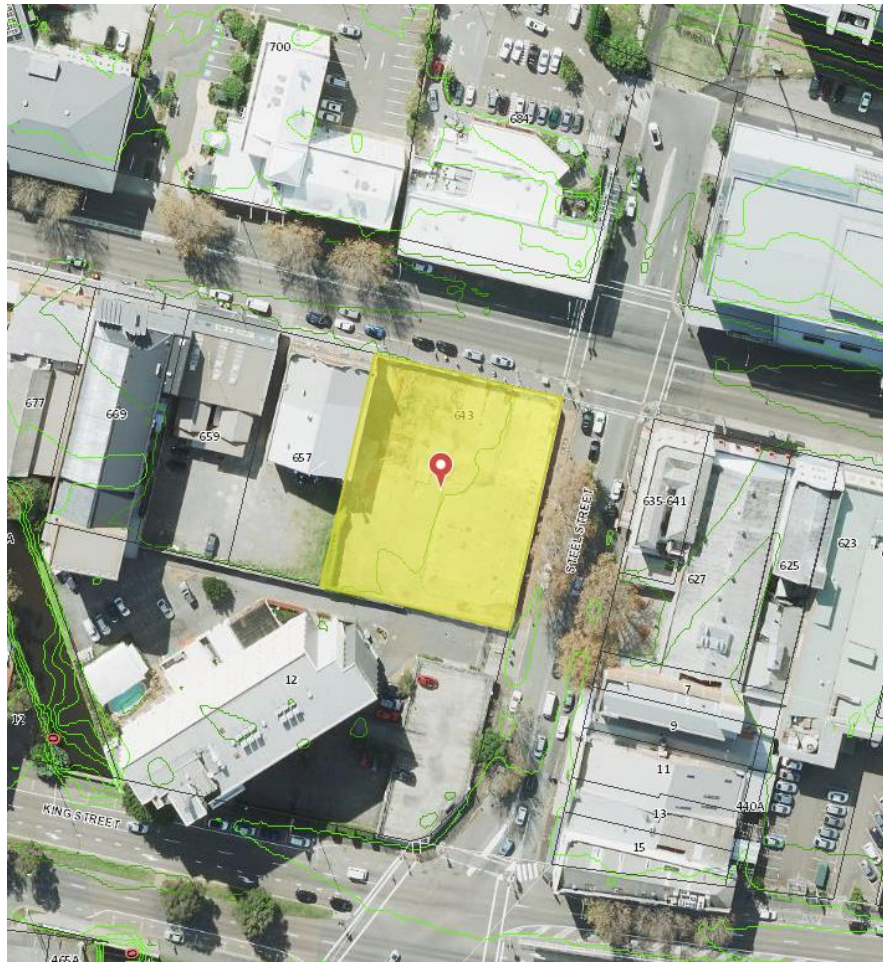
## 3. SITE DESCRIPTION

The site has an area of approximately 2,078.5m<sup>2</sup>, is rectangular in shape and is generally flat. The site is known as 643 Hunter Street, Newcastle West and comprises Lot 1 in DP 1166015. The site is located on a corner lot with a frontage to Hunter Street of 40.91m and a frontage to Steel Street of 50.77 metres (refer to **Figure 1** below).

The historic use of the use of the land is a hotel. The site is presently vacant with hardstand and footings of the former Empire Hotel. The site is generally devoid of vegetation and is almost wholly hardstand. The site has been subject to archaeological studies and there is a high probability of significant aboriginal objects.

There are a variety of different land uses in the general vicinity of the site, being predominantly commercial. The five storey '*Hunter New England Health*' polyclinic building, two storey '*Pizza Hut*' restaurant, '*KFC*' take away food premises and the four storey '*Ibis Newcastle*' hotel are located to the north of the site, across Hunter Street. To the south of the site is the seven storey '*Travelodge Hotel Newcastle*'. The three storey '*Family Hotel*' is to the east of the site, across Steel Street.

Adjoining the site to the west is a two storey commercial retail building and adjacent to this premises is the state heritage-listed Theatre Royal, being a three storey brick and rendered building currently occupied by the Hillsong Church.



**Figure 1:** Location of the site at 643 Hunter Street Newcastle West.

#### 4. PROPOSAL

The application involves:

- Earthworks, excavation and site preparation.
- Construction of a 13 storey, 48 metre high building comprising:
  - 702m<sup>2</sup> of ground floor commercial floor space.
  - 128 residential units over levels 3 to 13 (24x studio, 33 x 1 bedroom, 68x 2 bedroom, and 3x 3 bedroom).
  - Off street parking for 136 vehicles, as well as motorbike and bicycle parking over levels 1 and 2.
- Provision of street trees as well as landscaping associated with the building entrance and roof top terrace.

The commercial space on the ground level has a primary entrance from Hunter Street and a disabled access ramp is located on Steel Street. Car parking for the commercial space is at ground level, with a two-way driveway entrance located off Steel Street. Car parking spaces for the residential units are proposed over two levels, accessible via a two-way driveway off Steel Street.

The application proposes landscaping and communal space areas, including communal terraces and private terraces for some apartments.

#### 5. PLANNING ASSESSMENT

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

### **5.1.1 Section 23G – Joint Regional Planning Panels**

Section 23G and Schedule 4A (3) of the EP&A Act requires the Joint Regional Planning Panel (JRPP) to determine applications for general development over \$20 million. The capital investment value of the application is \$28,851,788 including GST. The application is to be determined by the Hunter and Central Coast Regional Planning Panel.

### **5.1.2 Section 91 – Integrated Development**

The proposal requires approval from Subsidence Advisory NSW (formerly the Mines Subsidence Board) under s15 of the *Mine Subsidence Compensation Act 1961*. The application was referred to the Mine Subsidence Board (MSB) as '*integrated development*' pursuant to Section 91 of the EP&A Act. The MSB provided a response to Council on 17 June 2016, with their conditions of approval.

A condition of consent has been recommended to require compliance with the conditions included in the response provided by the MSB.

### **5.1.3 Section 79C Evaluation**

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

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

#### **State Environmental Planning Policy (State and Regional Development) 2011**

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

#### **State Environmental Planning Policy (Infrastructure) 2007**

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

Schedule 3 of ISEPP, relates to traffic generating development and requires certain applications to be referred to the RMS. Development involving ancillary parking for more than 50 motor vehicles, with access to a classified road or to a road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road) is specified in this Schedule.

This section of Hunter Street is not a classified road and the site access is not within 90m of connection of a classified road. Accordingly, the application was not required to be referred to the RMS in accordance with Clause 104 of the ISEPP.

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (BASIX SEPP applies to buildings that are defined as 'BASIX affected development', being "development that involves the erection (but not the relocation) of a BASIX affected building" (i.e.: contains one or more dwellings).

Accordingly the provisions of the BASIX SEPP apply to the current development proposal. The applicant submitted a BASIX Certificate, which lists the commitments to achieve appropriate building sustainability. A condition is recommended to be included on the development consent requiring that such commitments be fulfilled.

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

This policy requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Clause 7(1)(b) and (c) of SEPP No.55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

Council's Senior Environment Protection Officer (RSU) in relation to contamination issues has made the following comments:

*'The RSU notes the SoEE does not contain any information relating to contamination at the premises; however following a review of the Statement of Heritage Impact prepared by EJE Heritage dated May 2016 the RSU was unable to identify any potential contaminating activities at the premises. As the Statement of Heritage Impact commences its investigations from 1850 to present date, the RSU does not believe there are any significant gaps in the history, therefore the RSU believes it is unlikely that the premises will be affected by contamination.'*

Accordingly, it is considered that the proposal is satisfactory having regard to this policy.

### **State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development**

This policy applies to the development of new residential flat buildings and aims to improve the quality of residential flat development. Clause 28(2) of the SEPP requires the consent authority to take into consideration the advice of a Design Review Panel, the design quality of the development when evaluated in accordance with the design quality principles and the Apartment Design Guide (ADG).

A SEPP 65 Statement has been submitted with the application, which addresses the nine design quality principles.

Council has an independent Urban Design Consultative Group (UDCG), who provided comments on the application, with extracts of the main points provided below. The proposal was considered by the UDCG on three occasions, 17/06/2016, 26/10/2016

and 15/02/17. A full copy of the Group's comments from each meeting is provided in **Appendix D**.

<b>1. Context and Neighbourhood Character</b>	
<p><u>UDCG comments:</u></p> <p>The site is located on the southwestern corner of Steel and Hunter Streets and includes the site of the former historic Empire Hotel. On the northern side of Hunter Street (on the opposite side) is a relatively new fast food outlet (KFC) that occupies the former site of the Palais. On the north eastern corner of Hunter Street, is the Hunter New England Health facility, which is a relatively recent building.</p> <p>The general area was discovered to be rich in Aboriginal artefacts at the time of the demolition of the Palais and excavation for the KFC outlet, and it is quite possible that similar artefacts may exist on the subject site. The local area is also an area of rich social history since European settlement, being the former site of one of the oldest hotels in the state, and being located opposite the former social hub of the Palais.</p> <p>The locality is currently under redevelopment, with substantial residential towers being constructed above areas of comparatively limited commercial or retail spaces at or near ground level.</p>	<p><u>Applicant's response:</u></p> <p>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.</p> <p>It was acknowledged that in the greater Newcastle City Centre as well as in the direct vicinity there are proposals of far greater scale. There are a variety of existing and proposed built forms within the area. Heritage both European and Aboriginal need to be considered.</p> <p>Whilst no concern was raised, it is important to note the proposal has considered the past, existing and likely future environment.</p> <p><u>Council comments:</u> Noted</p>
<b>2. Built Form and Scale</b>	
<p><u>UDCG comments:</u></p> <p>UDCG's final concluding comments are that the ongoing issue for this design has been street wall height, which the DCP prescribes as a maximum of 16m. A 16m height wall would be close to the height of several nearby historic buildings and facades and as such, it should generally be enforced.</p> <p>The revised proposal is for a street wall, which is around 16m high, before stepping in (alternating between approx. 0.3m and 3.0m) at the fifth floor, where it raises another 3m in height. Thus the</p>	<p><u>Applicant's response</u></p> <p>Stepping the podium and significant amendments to the building was not considered appropriate for various reasons and was accepted. As per suggested by the UDCG and illustrated in the attached previous and current perspectives, treatment of the upper level of the podium as well as the western wall has been altered as described below.</p> <ul style="list-style-type: none"> <li>- Stepping the north western corner of the western facade. Reduced height for</li> </ul>



<p>total street wall height is approx. 19m, although the top level of this has a stepped profile (and a material expression), which means that the perception of an overall height is reduced. At the least the apartment on the western end of the podium adjoining the neighbouring property - which does not comply with the height control - should be set back by approximately 2 metres from the common boundary for its <u>full</u> depth.</p> <p>The UDCG's preference is, as previously stated, to see a 16m street wall (ie. no fifth floor) at the edges of the site, but to allow the additional floor at the corner of the site, where it would provide appropriate emphasis at the corner of the urban fabric.</p>	<p>approximately 2.3 metres and a depth of approximately 3m.</p> <ul style="list-style-type: none"> <li>- Reduction in western facade area and amended visual treatments to reduce potential adverse impacts.</li> <li>- Varied treatments to the upper level of the podium implemented. Setbacks now provided to roof elements of the podium as well as material type and colour alterations are now proposed which soften the entire level upper level of the podium.</li> </ul> <p>The current proposal includes changes to the street wall and the podium as well as the horizontal elements, material treatment and separation all contributing in reducing the visual dominance compared with the previous scheme.</p> <p>The 16m street wall preferred height is actually quite close to what is proposed by way of "street wall", this combined with the lightened elements mentioned previously and setback now provided does actually result in the appearance of the podium/street wall being at the 16m street wall heights in any case. The built form above 16m on the podium is minimal/ generally set back 390mm and has treatments to reduce potential dominance.</p> <p>Regardless of what some may or may not consider the corner site.... The "red line" does confirm what is proposed as it stands does not appear significantly greater than the 16m guideline (at the street wall).</p> <p>Strategically, accommodation of this nature in this location in a city that is within a significant transition period is pretty positive.</p> <p><u>Council comments:</u></p> <p>The final amended scheme removes encroachments by the apartments at the eastern and western end of the podium to achieve a setback of approximately 2.6m from the common boundary with Hunter Street. This results in a 17.2m</p>
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	street wall for these two apartments and a 19.6m street wall for the two central apartments (albeit the final 2.2m of this street wall is setback approximately 390mm from the boundary with Hunter Street). The removal of the encroachment by two apartments exceeds UDCG's minimum recommendations (which stipulate removal of at least the encroachment by the western end apartment). Council considers that the amended final design satisfactorily addresses UDCG's recommendations for the built form and scale, and the proposed DCP variation to the maximum street wall height is minor and supported.
<b>3. Density</b>	
<u>UDCG comments:</u> The proposed density of 4.76:1 is within the permitted FSR of 6:1.	<u>Council comments:</u> The final amended scheme proposes a density of 4.75:1, which is within the permitted FSR of 6:1.
<b>4. Sustainability</b>	
<u>UDCG comments:</u> No specific information was provided in respect to sustainability inclusions.	<u>Council officer comments:</u> Noted
<b>5. Landscape</b>	
<u>UDCG comments:</u> UDCG's final concluding comments are that a revised landscape plan has been provided which responds to previous comments from UDCG.	<u>Applicant's response</u> The rooftop has a combination of artificial treatments (artificial turf, ground treatments) and non-artificial (planting) which provides suitable amenity and is an appropriate outcome. Ongoing maintenance of a "green roof" as opposed to highly useable spaces could create potential issues.  Providing a completely natural green roof will not eliminate the concern of antisocial activity. Providing formalised areas for activity provides greater direction for residents and the ongoing management of the space.  The provision of the central plant and access infrastructure with unimpeded access around provides limited concealment opportunity. Access to and from the rooftop is via multiple entrances, which limit potential for

	<p>entrapment. They also provide an alternative route to enable person to avoid a situation in which he or she might feel threatened. Signposts identifying exit routes can reduce feelings of isolation. In any case, the buildings, including rooftop are accessible only by secured access by residents or their guests.</p> <p>Management measures may be employed to encourage the appropriate use and improve safety of the space. For example, appropriate use of the space can be encouraged through the organisation of gatherings or activities for residents, or by making the planter boxes available for use as a community garden. Ongoing maintenance of the area will ensure the space is appealing and shows that the area is well cared for by maintenance staff and residents.</p> <p>Lighting that is directed to potential concealment areas will improve safety outside of daylight hours.</p> <p>The rooftop area could be included in regular building security patrols to improve surveillance. These measures, in combination with CCTV (as proposed in the initial DA information), will ensure the rooftop terrace is a safe and valuable asset for residents.</p> <p>The central infrastructure area also provides the opportunity for users to escape the natural elements such as wind and or at different times of the day, limited shading from the sun. Providing an additional roof structure across this area reduces its attractiveness of being an open rooftop area within a city environment.</p> <p>There has been no significant redesign or reduction of proposed units for the reasons outlined at the UDCG meeting with the intent of the development and outcomes providing significant community benefit. In addition, to reduce concerns surrounding surveillance of the courtyard area in the</p>
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	<p>south-eastern corner of the podium, amendments to the internal hallway length ensure improvements by direct physical and visual access to this courtyard space from the hall as well as common room.</p> <p>An amended hallway length and access to the common and courtyard areas on the podium level have been provided to improve access and visibility to proposed common areas. Amendments to the entrance of the common room in this location. Passive surveillance of Steel Street from the studio units with frontage to Street.</p> <p>Although, complete relocation of the community room is not possible, as suggested at the UDCG meeting some amendments to hallway configuration has occurred. In the case of the Steel Street common courtyard/ garden area, the ability for casual surveillance of this space is also enhanced by the provision of the direct access from both hallway and common room area.</p> <p>As per the previously provided correspondence which is attached, increased planter boxes of greater depth along Steel Street Studio Apartments is not appropriate in this instance due to ongoing maintenance issues associated with planter boxes of any greater depth.</p> <p>Planter boxes with greater depth will create issues relating to safety and the creation of impractical associated maintenance issues for individuals in this instance.</p> <p>The proposed planters will enable residents of these units to maintain their own planter box outside of their units, the depth will still enable planting of a size and nature that accommodates medium sized planting consistent with such units and the intent of providing such landscaping.</p> <p>As indicated, these planter boxes enable planting of a size and nature that</p>
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	<p>can provide benefit to the street. Increasing the depth of these spaces would only result in loss of open deck space for these units with only minimal gain with regard to planting space.</p> <p>The suggestion that a reduction of artificial turf to be replaced with natural species is for the reasons discussed at the UDCG meeting is in this instance, impractical and not appropriate. A combination of artificial and natural elements is proposed to ensure both the courtyard and rooftop areas provide suitable amenity for residents. This includes seating, passage areas And planting.</p> <p><u>Council officer comments:</u></p> <p>The amended final design satisfactorily addresses UDCG's recommendations for landscaping.</p>
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## 6. Amenity

<p><u>UDCG comments:</u></p> <p>UDCG's final concluding comments are that the two previous UDCG reports asked for additional details about natural light and cross ventilation in the design. Now these have been provided it is clear that the design does not achieve the required 60% natural cross ventilation. The proposed level is not a desirable precedent but could be accepted for four reasons: (i) the social programme and potential benefit of the design, (ii) the presence of two major common open spaces, (iii) the presence of natural light and ventilation in lift lobbies, (iv) the relatively shallow units, and their exposure to wind above the lower levels.</p> <p>Ensure that some form of continuous canopy around the corner entry zone provides good weather protection for pedestrians.</p>	<p><u>Applicant's response:</u></p> <p>All deck spaces can be separated by a metal screen or balcony divider. A condition of consent requiring such would be appropriate.</p> <p>Compliance with objectives and standards has been provided.</p> <p>In addition, the plans now provide an additional treatment on the corner of Steel and Hunter consistent with the UDCG comments.</p> <p><u>Council officer comments:</u></p> <p>The amended final design satisfactorily addresses UDCG's recommendations for amenity.</p>
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## 7. Safety

<p><u>UDCG comments:</u></p> <p>UDCG's final concluding comments are</p>	<p><u>Applicant's response</u></p>
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<p>that the Group noted that a number of minor improvements had been made to the ground floor entrance area that collectively largely addressed the concerns raised previously in this area.</p> <p>The Group remains concerned in respect to the casual surveillance and safety aspects raised under the landscape heading both in respect to the podium common areas and the rooftop accessible areas. In respect to the podium level, the small southern meeting room and the open space overlooking Steel Street have poor inherent casual surveillance and some readjustment of the planning of this area is warranted.</p>	<p>A number of amendments at the entrance were made which was considered to have addressed the concerns with safety at the entrance to the building.</p> <p>As discussed, the location of the meeting room, whilst at one end of the building will be utilised and managed as part of the building operations. Concerns over passive surveillance of Steel Street are largely reduced by the location of the studio apartments in this location. The doorway location from the hallway and common room has been altered to ensure improved visibility from common spaces. Providing all common areas with two points of entrance reduces the potential antisocial activities. Passive surveillance of the podium level will occur from the numerous units overlooking. Reducing useable space on the rooftop area, significantly reduces the ability to be out of the elements i.e. wind as well as will limit the ability to exist the roof from multiple points. Safety can be further improved by the use of convex mirrors and security systems (CCTV), which will be implemented consistent with the CPTED, report in any case.</p> <p>In addition, the plans now provide an "enclosed area" in the communal space on the rooftop consistent with the UDCG comments.</p> <p><u>Council comments:</u></p> <p>The amended final design satisfactorily addresses UDCG's recommendations for safety.</p>
<p><b>8. Housing Diversity and Social Interaction</b></p>	
<p><u>UDCG comments:</u></p> <p>UDCG's final concluding comments are that there is a sufficient mix of apartment types to accommodate residents (24 studios, 33 one bedroom, 68 two bedroom and 3 three bedroom units). The social aspirations of the development remain laudable, although it would have been preferable for the scheme to be developed in accordance</p>	<p><u>Applicant's response:</u></p> <p>This matter was resolved through explanation of the experience of those whom will be managing the site. Housing to be management by providers with proven skills and experience including the Catholic Dioceses and others. Such practices include on site management of some</p>

with the Affordable Housing SEPP.	<p>form of 24-hours/ day and direct access to emergency management.</p> <p><u>Council comments:</u></p> <p>The mix of unit types is supported. However, the development has not been assessed as affordable housing as no planning mechanisms have been used for this form of housing and, as stated by the Group, the application has not been lodged under the Affordable Housing SEPP.</p>
<b>9. Aesthetics</b>	
<p><u>UDCG comments:</u></p> <p>UDCG's final concluding comments are that in respect of the materials/colours proposed, consideration should be made to the use of a warmer palette of materials/colours for the 16m high street wall zone, and especially the sections fronting the car park. The objective should be for the podium levels above the 16 metres height control to be visual assertive, and for that reason the almost black colour of the non-compliant level as illustrated in the 'Revised issue for DA' should be a more neutral tone.</p>	<p><u>Applicant's response:</u></p> <p>From the original proposal, the driveway entrance has been reduced and includes areas that enable artwork/interpretation to provide an historic link. Conditions can be imposed that ensure that the corner element is utilised to recognise the historic importance of the site and provide a historical link not utilised for general advertisement purposes.</p> <p>Whilst no material board was provided a "schedule of external finishes" has been provided which clearly illustrates the intent of colours and materials.</p> <p><u>Council officer comments:</u></p> <p>The amended final design satisfactorily addresses UDCG's recommendations for external finishes as the colours were amended.</p> <p>Indicative signage is identified above the awnings on the Steel Street and Hunter Street elevations and an LED advertisement display screen is proposed above the ground floor commercial area on the corner of Hunter Street and Steel Street, however signage is not part of the current application. It is noted that above awning signage and advertisement signage are discouraged by the DCP and are unlikely to be supported. A condition is recommended to be included on the consent in this regard.</p>
UDCG concluding comments:	

<p>UDCG's final concluding comments are that strong preference remains for a 16m high street wall to the edges of the site, which would increase at the corner to around 19m. This would be the ideal solution in terms of urban form, and it would not create a precedent for adjacent or nearby developments to exceed the 16m height.</p> <p>Notwithstanding this comment, it is noted that the present scheme has: (i) a five storey podium which is 16m high, (ii) then a variable setback to the sixth storey taking the total podium height to around 19m and (iii) a facade expression which emphasises the 16m section. This combination at least partially answers the UDCG's concerns but should be further refined as recommended above.</p> <p>The applicant is supported subject to the detailed design of the podium and street awning at the corner being resolved as recommended above to the satisfaction of Council.</p>	<p><u>Council comments</u></p> <p>As stated in section 2, the applicant has made some amendments to reduce the variation to the street wall height. The awning has also been amended to provide for continuous cover on the street frontage.</p> <p>On the basis of these changes, the design is considered to be acceptable.</p>
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### Apartment Design Guide (ADG) - Key "Rule of Thumb" Numerical Compliances

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

#### **1. Separation Distances**

*"Minimum separation distances for buildings are:*

- *up to four storeys/12 metres*
- *12 metres between habitable rooms/balconies*
- *9 metres between habitable/balconies and non-habitable rooms*
- *6 metres between non-habitable rooms"*
  
- *five to eight storeys/25 metres*
- *18 metres between habitable rooms/balconies*
- *12 metres between habitable/balconies and non-habitable rooms*
- *9 metres between non-habitable rooms"*
  
- *nine storeys and above (over 25m):*
- *24m between habitable rooms/balconies*
- *18m between habitable rooms and non-habitable rooms*
- *12m between non-habitable rooms"*



## Comment

The southern boundary shared with the Travelodge Hotel:

- The existing Travelodge Hotel building is setback approximately only 5.5m from the southern site boundary and at an angle.
- The northern and north eastern elevations of the Travelodge Hotel facing the site are blank containing no window or door openings.
- The Travelodge Hotel building does not significantly affect solar access to the development.
- The Travelodge building is only seven storeys in height.

As such, the separation distance from this building adjacent to the southern boundary is considered acceptable.

The western boundary is shared with a two storey commercial building and the table below provides comments on this setback.

Floor Level	Comment
All levels	The adjoining building is only two storeys in height. However it is appropriate to consider its future redevelopment potential. In cases such as these, for equity, it is standard practice to require half of the required separation for each building. The proposal generally complies with this requirement.
Ground Floor and Levels 1-2 Car Park	The proposed development is built to the boundary with no window openings.
Level 3	Private gardens and communal areas are proposed to be built to the boundary with privacy addressed with a metal screen. It is recommended that the screen be conditioned to be a minimum 1.8m high.
Levels 4 and 5	The most western unit of the proposal is built to the boundary to provide continuous street frontage. These units do not have openings to the western boundary and have a solid screen along the western boundary for their balcony. The remainder of the units facing the western boundary are setback 11.63m, which is considered reasonable and acceptable.
Levels 6 to 13	There is a setback of 11.63m from the western boundary, which is considered reasonable.
Roof Terrace	There is a setback of 13.12m from the western boundary, which is considered reasonable and acceptable.

As such, the separation distance from this building adjoining the western boundary is considered acceptable.

## **2. Size of Units**

*Apartments are required to have the following minimum internal areas:*

- studio apartment 35m<sup>2</sup>
- 1 bedroom apartment 50m<sup>2</sup>
- 2 bedroom apartment 70m<sup>2</sup>
- 3 bedroom apartment 95m<sup>2</sup>

*Additional bathrooms increase the internal area by 5m<sup>2</sup>.*

## Comment

All of the proposed apartments comply with this requirement with the exception of the 3 bedroom unit at Level 5, which is 84.7m<sup>2</sup> and so does not comply with the minimum of 95m<sup>2</sup>. This variation to the guide is considered minor and satisfactory, as the proposed unit will have good amenity, having a dual aspect with generous and usable indoor living and private outdoor balcony space.

### 3. Unit Configuration

<b>'Rule of thumb'</b>	<b>Officer comment</b>
<i>"Provide primary balconies for all apartments with a minimum depth of 2 metres for 1-2 bedroom and 2.4 metres for 3 bedrooms."</i>	Complies
<i>"in mixed use buildings: 3.3 metre minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use"</i>	Complies
<i>"Measured from finished floor level to finished ceiling level, minimum ceiling heights are 2.7m for habitable rooms"</i>	Complies
<i>"The back of a kitchen should be no more than 8 metres from a window."</i>	The majority of units comply with this requirement. Some units have kitchens located approximately nine metres from a window. This minor variation is considered to be acceptable.
<i>"The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts"</i>	Complies
<i>"Every habitable room must have windows in an external wall with a total minimum glass area of not less than 10% of the floor area of the room"</i>	Complies

### 4. Solar Access

*Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of two hours direct sunlight between 9 am and 3 pm in mid-winter."*

*"A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter."*

The applicant has advised:

*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.*

Comment

The proposal complies with this requirement.

**5. Storage**

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

*Studio apartments 4m<sup>3</sup>  
1 bedroom apartments 6m<sup>3</sup>  
2 bedroom apartments 8m<sup>3</sup>  
3 bedroom apartments 10m<sup>3</sup>*

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

Comment

The proposal complies with this requirement.

**6. Natural Ventilation**

*"At least 60% of apartments are naturally cross ventilated"*

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

Comment

The proposal does not comply with this requirement. 33% of the units in the first nine storeys are cross ventilated and 40% of all apartments on 10<sup>th</sup> storey and above are cross-ventilated. However, the layout of the apartment levels has been designed to create a naturally cross ventilated lobby spine across the width of the building. All units have a depth of less than 12m. The proposal is considered to be satisfactory in this regard and the UDCG supported the variation to the cross ventilation due to the presence of two major common open spaces, natural light and ventilation availability in the lift lobbies and the relatively shallow units.

**7. Private Open Space**

*"1 bedroom apartments 8m<sup>2</sup> with 2m minimum depth  
2 bedroom apartments 10m<sup>2</sup> with 2m minimum depth  
3 bedroom apartments 12m<sup>2</sup> with 2.4m minimum depth"*

Comment

The apartments comply with this requirement.

**8. Communal and Public Open Space**

*"communal landscaping 25% of the site"*

*"communal open space receives 50% direct sunlight in mid-winter"*

Comment

The following communal facilities are provided to the development:

- Two community gardens on Level 3 adjacent to the community room (260.1 m<sup>2</sup>).
- A roof terrace adjacent to the community room at plant level (503.3m<sup>2</sup>).

Accordingly, it is considered that the proposal complies with the 25% requirement. The terrace areas are north facing and accordingly maximise the potential for solar access.

## 9. Deep Soil Zones

*"15% of the site as deep soil on sites greater than 1,500m<sup>2</sup>"*

### Comment

The proposed landscaping is located on the podium and roof levels, and accordingly is not considered to be 'deep soil' landscaping. However, the proposal is acceptable noting the constraints of the site and the style of the development, i.e. shop top housing development in a city centre location.

## 10. Common Circulation Spaces

*"the maximum number of apartments off a circulation core to a single level is eight"*

### Comment

On every residential floor of the development, the numbers of apartments off a circulation core exceed the eight maximum. This matter was specifically discussed by the UDCG and, while less than ideal, was generally considered to be acceptable in this instance.

### Concluding Comment

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

## State Environmental Planning Policy No.71 - Coastal Protection

State Environmental Planning Policy No.71 does not apply to the Newcastle City Centre, as per clause 1.9 of the Newcastle Local Environmental Plan 2012.

## State Environmental Planning Policy No 64—Advertising and Signage

The application does not include approval of signage. A separate development application is to be submitted in this regard.

## Regional Environmental Plan

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

## Newcastle Local Environmental Plan 2012

### *Clause 1.3 – Land to which Plan applies*

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

### *Clause 2.3 Land Use Table - Zoning*

The site is zoned B3 Commercial Core under the LEP. The proposed development is defined as shop top housing under the LEP, which is permissible in the zone.

The development meets the objectives of the zone as it will encourage employment opportunities in an accessible location, will maximise public transport patronage (when the Wickham Transport Interchange and Newcastle Light Rail are constructed) and will assist in strengthening the role of the Newcastle City Centre as a regional business centre for the Hunter region.

### *Clause 4.3 Height of Buildings*

The Height of Buildings Map has a maximum height limit for the site of 60m. The proposed development has a maximum height of 48m.

### *Clause 4.4 Floor Space Ratio*

The maximum floor space ratio for the site, provided for by this clause, is 6:1. The proposed development has a floor space ratio of 4.75:1, which complies with this requirement.

However, Clause 7.10 of the NLEP prevails over this clause (see below).

### *Clause 5.5 Development within the Coastal Zone*

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

### *Clause 5.10 Heritage Conservation*

The subject site is not listed for its cultural heritage significance in Schedule 5 Part 1 of Newcastle Local Environmental Plan 2012. However, the site is located within a Heritage Conservation Area and positioned in proximity to one listed heritage item.

The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or Newcastle Local Environmental Plan 2012 as an '*Archaeological Site*'. However, the site is in the vicinity of a listed Archaeological Site, being the former Palais Royale site at 684 Hunter Street Newcastle West.

### *Archaeology*

The applicant has submitted an Aboriginal Cultural Heritage Assessment Report (ACHAR) and Historical Archaeological Assessment Report (HAAR).

In this regard, the ACHAR advises:

*'The AHIMS search undertaken for this assessment has identified that the study area is a recorded archaeological site, namely an area of Potential Archaeological Deposit and that a significant number of artefact sites and PADs are also present in the immediate vicinity despite historic and modern disturbances. Two of the previously recorded sites were identified with midden material, both of which are located within 70 metres of the study area and were assessed as likely to extend into the current study area, hence the assignment as PAD.'*

*'Consultation regarding the Aboriginal cultural values associated with the project area has been undertaken in accordance with Part 8A, Clause 80C of the National Parks and Wildlife Regulation 2009....During the on-site consultation meeting, members of the registered Aboriginal parties (RAPs) confirmed that the Hunter River foreshore is culturally significant and that the project area is situated within a significant and complex cultural landscape. The extensive archaeological investigations undertaken adjacent to the project area boundary are seen as a confirmation of the cultural significance and indicate that the project area is likely to contain physical remains of the cultural significance of the area.'*

*Comments on the draft ACHAR were received which indicated that some of the RAPs would prefer to temporarily store any recovered artefacts and cultural heritage material at the Awabakal Local Aboriginal Land Council offices.'*

The full methodology undertaken by the applicant is detailed in the ACHAR. This report concludes:

*'This assessment has found that the study area is of high cultural significance. The study area is located on a foreshore sand dune along the Hunter Estuary, which is of high aesthetic significance. The study area is of high archaeological and cultural significance as the location of a midden and artefact distribution, which demonstrates a direct association with past Aboriginal land use of the Newcastle area and the Hunter Estuary. It demonstrates high research potential with the potential to provide further information about the use the region and potential scientific dates. The study area provides a tangible connection to past culture and land use along the Hunter River foreshore which has been identified during consultation with the Registered Aboriginal parties as a culturally significant landscape.'*

*The assessment has found that the proposed works would involve the subsurface excavation of both historic fill and natural soil profiles. Therefore, the proposed works are likely to negatively impact upon the potential archaeological deposit. As such, a series of mitigation measures are required in order to manage the proposed impact on the potential subsurface in-situ archaeological midden site.'*

The recommendations made by the ACHAR include that the applicant should apply to the Director-General of the Office of Environment and Heritage for an Aboriginal Heritage Impact Permit (AHIP) in accordance with Section 90 of the NPW Act, with this

AHIP to cover the entirety of the site. The AHIP should include provision for the completion of archaeological salvage activities, to be undertaken as a phased process.

The HAAR advises:

*'This assessment has found that modern development of the study area - which has included the construction of concrete slabs over much of the area - has likely capped the earlier historic occupation phases. The assessment has also found that the original Hotel, although repeatedly upgraded, remained until the demolition of the buildings in 2011. As such, this assessment has found that there is a high likelihood for sub-surface historical phases of development across the study area.'*

*'The proposed works would remove up to 1.5 metres of fill deposit down to a natural soil profile. This assessment has found that any potential surviving early historic features and remains are likely to be located within and/or beneath these fill layers. As such, the proposed stripping and removal of fill works are likely to destroy and remove all historical archaeological remains. The assessment has also found that any historical archaeological remains on the natural soil profiles may be negatively impacted upon.'*

*'In order to mitigate against the historical archaeological impacts of the proposed redevelopment of the study area, it is recommended that a Section 140 Application for an Excavation Permit be applied for.'*

Subject to the development being undertaken in accordance with the recommendations of the ACHAR and HAAR, the appropriate permits being obtained by the applicant, it is considered that the proposal has adequately addressed the archaeological requirements of the LEP.

#### *Newcastle City Centre Heritage Conservation Area*

In relation to the Conservation Area generally, its significance is interpreted as:

*'The Newcastle City Centre Heritage Conservation Area is significant on many levels. The assemblage of commercial and civic buildings is a powerful reminder of the city's rich history and its many phases of development. The number of historic buildings surviving is quite remarkable for a city of this size, with a number of pre-1840s buildings surviving (Rose Cottage, c1830, Newcomen Club, 1830, Parts of James Fletcher Hospital). All of these are associated with the city's penal heritage. It is also known to be a city with a rich archaeological record of national significance, for its potential to yield information about the early convict settlement and early industrial activities. The city area is known to have been a place of contact between colonists and the indigenous population, who owned the land on the southern shores of the Hunter river. This evidence is available in historical accounts and in the archaeological record surviving beneath the modern city. The high numbers of commercial and civic buildings of the 19th and 20th centuries gives the city a historic character which is notable and allows an understanding of the importance of the city as a place of commerce, governance and city building. The historical foundation of the city was the discovery and exploitation of coal with good shipping access via a safe and navigable harbour. The town's layout by Surveyor General Henry Dangar in 1828 is still visible in the city's streets, and is an element of historical value.'*

In terms of the item in close proximity, this includes:

- I498 Theatre Royal (State significance)

The significance of the Theatre Royal is well understood and recognised in the Newcastle community. It encompasses aesthetic, architectural, historic and social values at a state level.

Other heritage listed sites in proximity to the subject land include:

- I499 Bellevue Hotel
- I507 Former Gasworks Office
- I497 Hunter Water Board Building
- I496 Newcastle Technical College

In context, the surrounding area displays richness in European cultural heritage significance. The diversity and historical associations are acknowledged and well documented.

In relation to the proposal's impact in relation to the heritage conservation area, the applicant submits:

*Following dereliction and demolition of the former Empire Hotel buildings, the site of 643-651 Hunter Street retains no accessible historic fabric that allows public responders to interpret the history of the site. The significance of the history of the site and buildings, namely the former Hotel's cultural role in the lives of patrons and its representative portrayal of the urban development and decline of Newcastle's West End, is now solely confined to documentary evidence such as written histories and photographs of the Hotel from years past. 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 intended continuation of the name "The Empire" returns and extenuates the strong association between the site and its former Hotel, providing an ongoing and promoted link between the site and its historical significance.*

*Some elements of heritage interpretation of the former Empire hotel's history should be included in the public or semi-public areas of the building. This could include for example plaques with historical information affixed to the exterior of the building at street level and/or a photographic history of the site displayed within the residential lobby or commercial fit out of the building on the ground floor.*

In respect of the proposed development, the proposed new building is of a form, scale and massing that is generally compatible with the established character of the immediate locality, and from an urban design perspective it is considered that it will fit comfortably within this part of the streetscape. The proposed palette of materials, colours and textures are acceptable having regard to the tones and hues evident of the area.



Overall it is considered that the proposed development will not diminish the cultural significance of the surrounding Heritage Conservation Area, or any of the locally heritage listed sites in close proximity.

#### *Clause 6.1 Acid Sulfate Soils*

The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). The development is likely to require works 2m or more below natural ground level. Accordingly, it is considered that, subject to conditions, the proposal can be appropriately managed in this respect.

#### *Clause 6.2 Earthworks*

The earthworks proposed in association with the proposal have been considered in accordance with this clause. In this regard the application is considered to be acceptable. The potential impacts of the earthworks in relation to archaeological considerations have been discussed in this assessment.

#### *Part 7 Newcastle City Centre*

The site is located within the Newcastle City Centre. There are a number of requirements and objectives for development within the City Centre, which includes promoting the economic revitalisation of the City Centre, facilitating design excellence and protecting the natural and cultural heritage of Newcastle. The proposed development will meet the objectives of Part 7 of the LEP.

#### *Clause 7.3 Minimum Building Street Frontage*

The site is to have a minimum street frontage of 20m under clause 7.3. The frontage to both streets complies with this requirement as the frontage to Hunter Street is 40.91m and the frontage to Steel Street is 50.77m.

#### *Clause 7.4 Building Separation*

This clause states:

*'A building on land to which this Part applies must be erected so that the distance from the building to any other building is not less than 24 metres at 45 metres or higher above ground level.'*

The proposed building is 48m high above ground level. The tallest building within 25m of the site is the Travelodge Hotel Newcastle. This building (including telecommunications tower and parapet) is seven storeys and 31.38m high above ground level. The proposal is considered to be acceptable in this regard.

#### *Clause 7.5 Design Excellence*

Newcastle City Council's Urban Design Consultative Group (UDCG) initially reviewed the proposal on 17 June 2016. The development application was reviewed again by the UDCG on 26 October 2016 and 15 February 2017. The UDCG are supportive of the application, as discussed under the comments on SEPP 65.

The development meets the design excellence criteria of the LEP and is of a high standard of architectural quality. The development will improve the quality and amenity of the public domain through street activation and does not significantly impact on any identified view corridors. The development has adequately addressed heritage issues, streetscape constraints, and circulation requirements and has an acceptable bulk, mass and articulation. The proposal is acceptable having regard to environmental impacts and the principles of ecologically sustainable development.

An Architectural Design Statement has been submitted with the application that addresses the design principles that have been used to formulate the proposal.

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

#### *Clause 7.6 Active Street Frontages in Zone B3 Commercial Core*

This clause states that consent cannot be granted for a development in a B3 Commercial Zone unless the building will have an active street frontage, where the ground floor facing the street is to be used for business or retail premises. The ground floor of the proposed building is identified as commercial. The design of the development includes a glazed facade on the ground floor with covered pedestrian areas, which will encourage activation of the street frontage.

The design of the development meets the requirements of this clause.

#### *Clause 7.7 Residential flat buildings in Zone B3 Commercial Core*

This clause specifies that development consent must not be granted to a residential flat building on land in Zone B3 Commercial Core unless it is a component of a mixed-use development involving a permitted non-residential use.

The ground floor of the proposed building is identified as commercial, which is a permissible use in the zone. The design of the development meets the requirements of this clause.

#### *Clause 7.9 Height of Buildings*

The site is not within 'Area A' or 'Area B' on the Height of Buildings map, and accordingly this clause does not apply.

#### *Clause 7.10 Floor space ratio for certain development in Area A*

The site is mapped as having an FSR of 6:1. However, the subject site is located within 'Area A' as shown on the Floor Space Ratio Map. In 'Area A' the maximum FSR for a building other than a commercial building on land with a site area of 1,500 square metres or more is reduced. In this instance, being a site with an FSR control of 6:1 (or greater), the resulting FSR is reduced to 5:1.

The proposal complies as it has a FSR of 4.75:1.

### **5.1.3.2 Section 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition**

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

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

#### Newcastle Development Control Plan 2012 Amendment - 3.03 Residential Accommodation

A draft amendment to the Newcastle Development Control Plan 2012 (DCP) is currently on exhibition and consolidates and updates controls for various forms of residential buildings. A savings provision is included in the DCP that states that any development application lodged but not determined will be determined as though the provisions of this section did not apply. On this basis, the application has been assessed under the current provisions of the adopted DCP 2012.

#### Newcastle Development Control Plan 2012

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

#### *3.05 - Residential Flat Buildings*

This section does not contain specific controls, but rather refers to SEPP 65. The proposal has been considered in accordance with SEPP 65, as detailed in this report.

#### *3.10 - Commercial Uses*

This section requires that the ground level be activated through the provision of retail or business premises, minimising the use of solid walls that would affect visual connections. The proposal complies with these requirements.

#### *4.01 - Flood Management*

Council's Engineer has made the following comments in relation to the proposal:

*'The site is subject to flooding. A flood certificate was provided for the site Ref: FLD2015/00181.*

*The following is noted from Council's Flood Certificate:*

- *The PMF Flash flood level is noted as 4.20m and Ocean PMF is noted as 3.40m AHD.*
- *1 % AEP level for flash flood is noted as 2.40m AHD and Ocean level is noted as 2.20m AHD.*
- *The recommended floor level is noted as 2.90m AHD.*
- *The site is classified as a flood storage area.*
- *Risk to life is noted as L4 and flood refuge is required.*

#### Ground Floor and Car Park Design Level

*The proposed ground floor Commercial Areas, Plant Room, Electrical Substation, Switch Room, Communication Room, Fire Booster and any electrical works have been set at Flood Planning Level of 2.90m AHD. The Ground Floor car park entry for southern ramp has been designed at minimum 1% AEP Flash Flood level of 2.40m AHD.*

#### *Flood Refuge and Flood Management Plan*

*It is noted that PMF for Flash flooding level is estimated at 4.20m AHD. The site was inundated to a level of 3.1m AHD during the 2007 floods.*

*Flood refuge has been addressed and it is indicated to be at the upper levels of the building will serve as flood refuge. It is also noted that the ground level car park being set at 2.40m AHD may be subject to flooding in events greater than the 1% AEP flash flood.*

*A flood Management Plan will need to be done to ensure that the ground floor is evacuated during flood events. Signs, maps and location of flood refuge may need to be provided to inform of the flood. A condition will be placed to ensure that a flood management plan is prepared at construction certificate stage.*

#### *Flood Storage Area*

*The ground flood car park entry is set at 2.4m AHD and the remaining car park is set at 2.2m AHD. This means that the ground floor car park will act as a flood storage area during events greater than 1% AEP. The site therefore provides some flood storage.*

#### *Conclusion*

*The additional requested information by Council to set the ground floor levels has been addressed and plans have been amended to reflect the flood planning levels.*

*The proposed development complies with Council DCP for Flood Management and conditions are recommended.'*

The proposal is considered to be satisfactory in relation to flooding.

#### *4.03 - Mine Subsidence*

The site is located within a proclaimed Mine Subsidence District and the Mine Subsidence Board (now known as Subsidence Advisory NSW) has forwarded their conditional approval.

#### *4.04 - Safety and Security*

The applicant has submitted a Crime Risk Assessment Report, that notes:

*Following a review of the site context and the design the development is deemed to have a low risk of crime subject to adopting the recommendations outlined in this report. It integrates measures to mitigate the risk of crime including:*

- access control using technical (e.g. swipe card / keypad / intercom) and non-technical measures (e.g. signage)
- surveillance using appropriate location and orientation of uses, private open space, parking, landscaping and lighting
- territorial reinforcement through the appropriate delineation of spaces
- activity and space management through designation of space and provision of opportunities to promote and manage activities in public spaces.

*This report recommends the following measures to further reduce the risk of crime:*

- *Surveillance within the fire passageways may be improved through the use of mirrors and lighting to improve visibility at corner and entry locations.*
- *Concealment opportunities may be reduced by angling the fire passageway egress inlet wall (Hunter Street frontage) 45 degrees or more where possible.*
- *Surveillance opportunities outside of normal business hours may be improved through the use of night patrols or other organised security services should be considered.*
- *Information regarding proposed access control measures particularly for the building entries and driveways should be detailed at the construction certificate stage.*
- *Landscaping maintenance should promote natural surveillance with pruning of low branches to approximately 2 metres high, and the pruning of ground cover and hedges at around waist height.*
- *Signage should clearly identify uses and any access restrictions, and assist with wayfinding to reduce 'excuse making' behaviour.*
- *Implement maintenance procedures to ensure timely repair of damaged property and lighting, and 'rapid removal' approach to graffiti.*
- *Graffiti resistant materials and surface treatments should be used where possible.*
- *Lighting should provide continuous illumination to car parking areas. Motion activated lighting is appropriate around other areas of the site such as internal corridors (fire passageway excluded).*
- *Lighting should promote surveillance, aid identification, and mitigate potential entrapment or hiding areas.*
- *External lighting is to be directed toward approaches to buildings rather than illuminating observers or vantage points (windows and doors).*

It is noted that the UDCG made the following comments in relation to security:

*The Group noted that a number of minor improvements had been made to the ground floor entry area that collectively largely addressed the concerns raised previously in this area.*

*The Group remains concerned in respect to the casual surveillance and safety aspects raised under the Landscape heading both in respect to the podium common areas and the rooftop accessible areas. In respect to the podium level, the small southern meeting room and the open space overlooking Steel Street have poor inherent casual surveillance and some readjustment of the planning of this area is warranted.*

In response to these concerns, the applicant amended the proposal, including alterations to the doorway location from the hallway and common room, to ensure improved visibility from common spaces, and providing two points of entry to all

common areas to reduce potential anti-social activities. In addition, an enclosed community room is provided at the rooftop terrace.

The proposal is satisfactory in relation to safety and security.

#### 4.05 - Social Impact

The applicant has submitted a Social Impact Assessment prepared by Key Insights, in support of the application. This report concludes:

*'This social impact research finds that the proposed Empire apartment development, as an affordable housing project with significant disability specific apartments, will deliver a net social and economic benefit to the West End and to the city of Newcastle.'*

*Population diversity is a valuable attribute for a growing city and this development encourages diversity and will deliver fair access to the inner city market for disadvantaged groups.*

*The proponent, The Diocese of Maitland and Newcastle, has a social justice agenda and its broadly based experience give a high degree of confidence that they will be able to partner with a community housing provider and deliver a quality development to meet the needs of low income earners and people with disabilities.'*

The report makes the following recommendations:

*'In order to maximise the potential positive social impacts and mitigate the potential negative social impacts the following recommendations are made:*

- 1. Develop a "Welcome Kit" for new residents listing local services and facilities including schools, churches, recreational opportunities, clubs and transport options.*
- 2. Create a "residents committee" to operate in a similar way to a body corporate (without the financial responsibilities) and plan for maximising the use of community space and managing an internal community notice board.*
- 3. Consider commercial interfaces that enhance the street scape and provide services for residents and the local community.*
- 4. Select a community housing provider that will manage appropriate selection criteria and ensure good linkages between NDIS mechanisms.*
- 5. Create a communications strategy to promote the social benefits of the project and utilise local groups such as the Precinct Committee and Newcastle Now.*
- 6. Consider construction interactions with light rail construction timing.'*

It is considered that the proposal is acceptable in relation to social impacts.

#### 5.01 - Soil Management

A Sediment and Erosion Management Plan has been submitted with the application to minimise sediments being removed from the site during the construction period. A condition is recommended to be placed on the consent to ensure such measures are in place for the entire construction period.

#### *5.02 - Land Contamination*

Reference is made to the previous comments in relation to SEPP 55.

#### *5.04 - Aboriginal Heritage*

The potential impacts of the development in relation to archaeological considerations have been discussed in this assessment.

#### *5.05 and 5.07 - Heritage Items and Heritage Conservation Areas*

As previously stated under clause 5.10 of the LEP, the site is not heritage listed for its cultural heritage significance in Schedule 5, Part 1 of Newcastle Local Environmental Plan 2012 and it is not an identified archaeological site. However it is located within a Heritage Conservation Area and located in the vicinity of adjoining heritage items.

In relation to the specific DCP requirements, it is noted:

- The subject site is within the Newcastle City Centre Heritage Conservation Area. The proposed materials, colours and detail have been designed to complement the character of the surrounding area and will not have an adverse impact on the heritage conservation area.
- The proposal is considered to be satisfactory having regard to the key development controls for the site, including height and FSR.
- The proposal has minimised vehicular crossings, proposing only one driveway access. Carparking is integrated within the building and is not visible to the street.

It is considered that the proposal is acceptable having regard to the controls contained in the DCP relating to heritage.

#### *5.06 - Archaeological Management*

The site is not listed as an '*Archaeological site*' in accordance with the LEP. However, as previously discussed a detailed assessment on this issue has been made as part of the application.

#### *6.01 - Newcastle City Centre*

The site is located in the '*West End*' character area of the city centre. The principles for this area include:

- Building entries are inviting with active frontages that allow visual permeability from the street to the building.
- Distinctive early industrial, warehouse and retail buildings that contribute to the character of the area are retained and re-purposed.
- Heritage items and their setting are protected.

The specific controls contained in the DCP are discussed below.

Criteria	Comment
A1 - Street Wall Heights	<p><u>Applicant's comment:</u></p> <p>'The 16m street wall preferred height is actually quite close to what is proposed by way of "street wall", this combined with the lightened elements mentioned previously and setback now provided does actually result in the appearance of the podium/street wall being at the 16m street wall heights in any case. The built form above 16m on the podium is minimal/ generally set back 390mm and has treatments to reduce potential dominance.'</p> <p>Further, the UDCG noted that 'the ongoing issue for this design has been street wall height, which the DCP prescribes as a maximum of 16m. A 16m street wall height would be close to the height of several nearby historic buildings and facades and as such, it should be generally enforced.'</p> <p>The UDCG continues 'the revised proposal is for a street wall which is around 16m high, before stepping in (alternating between approx. 0.3m and 3.0m) at the fifth floor, where it raises another 3m in height. Thus the total street wall height is approx. 19m, although the top level of this has a stepped profile (and a material expression) which means the perception of an overall height is reduced. At the least the apartment at the western end of the podium adjoining the neighbouring property - which does not comply with the height control - should be set back by approximately 2 metres from the common boundary for its <u>full depth</u>.'</p> <p>The UDCG concludes 'the UDCG's preference is, as previously stated, to see a 16m street wall (ie. no fifth floor) at the edges of the site, but to allow the additional floor at the corner of the site, where it would provide appropriate emphasis at the corner.'</p> <p><u>Comment</u></p> <p>The DCP contains a specific street wall height for the site, being 16 metres, with any development above this height to be setback a minimum of 6 metres. The proposal does not comply with this requirement, having a street wall height of approximately 19.6m (albeit the final 2.2m of this street wall is setback approximately 390mm from the boundary with Hunter Street) and a front setback above this height of 3-3.4m.</p> <p>While this is a departure from the DCP, Council officers have afforded significant weight to the UDCG comments, which are supportive of this variation, provided the apartment at the western end of the podium adjoining the neighbouring property is setback approximately 2m from the common boundary for its full depth. The applicant to comply with this</p>



	<p>recommendation has subsequently amended the design. Furthermore, in exceedance of UDCG's recommendations, the apartment at the eastern end of the podium is also setback approximately 2m in order to balance the design and appearance of this Hunter Street elevation. It is considered the proposed DCP variation to maximum street wall height is minor and supported.</p>
A2 - Building Setbacks	<p>The DCP requires a nil front setback for the street wall height. The proposal complies with this requirement.</p> <p>Side and rear setbacks can be built to the boundary below the street wall height. Additional setbacks for commercial development are specified in the DCP, which do not apply to this residential development. As detailed in the assessment, building separation has been considered in accordance with SEPP 65.</p>
A3 - Building Separation	<p>The subject site will not accommodate more than one building, and accordingly the provisions of this clause do not apply.</p>
A4 - Building Depth and Bulk	<p>Above street wall height, the DCP specifies a maximum Gross Floor Area of 900m<sup>2</sup> per floor, and a maximum building depth of 18m. Buildings above street wall height are to have a maximum building length of 50m.</p> <p><u>Comment</u></p> <p>The tower component (above street height) has a maximum building length of less than 50m (i.e. approximately 40-42m along Steel Street frontage and 40m along Hunter Street frontage, excluding balcony projections) and a GFA for of less than 900m<sup>2</sup> per floor.</p> <p>The proposal is acceptable having regard to the nature of the proposal and the comments from UDCG.</p>
A5 - Building Exteriors	<p>The proposal adequately responds to the performance criteria of the DCP. The proposed materials and finishes have been considered by the UDCG.</p>
A6 - Heritage Buildings	<p>As discussed in this assessment, the proposal is considered to be acceptable in relation to heritage matters.</p>
A7 - Awnings	<p>The application provides awnings as required by the DCP.</p>
A8- Design of Parking Structures	<p><u>Applicant's comment:</u></p> <p><i>'Parking is provided at Levels 1-2, accessible by two double lane ramps located on the southern end of the Steel Street façade. 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).'</i></p> <p><u>Comment</u></p> <p>The proposal is acceptable in this regard.</p>
B1 - Access Network	<p>The site is located on Hunter Street, identified as a proposed</p>

	dedicated cycle lane. The proposed development's location, active ground floor level, cycle store and intensification of use will complement and encourage use of this proposed infrastructure.
B2 - Views and Vistas	The subject site will not impact on any identified views or vistas. The proposal is acceptable having regard to this section.
B3 - Active Street Frontage	<p>The DCP requires an active street frontage for a minimum of 70% of the primary frontage. The proposal includes a ground floor commercial component, which comprises approximately 90% of the Hunter Street frontage and 47% of the Steel Street frontage. While this is strictly non-compliant along the Steel Street frontage, it is noted that this is a function of the entrances and services required for the building. It is considered that the proposal meets the intent of the DCP, in providing an active frontage.</p> <p>The proposed street activation is well resolved by the development and has considered the constraints of the site.</p>
B4 - Addressing the street	The proposal is considered to be acceptable, noting that the building prominently addresses the street, with the central ramp, which provides equitable access to the building.
B5 - Public Art	<p>The DCP requires that developments over 45m in height are to allocate 1% of the capital cost of the development towards public art for development.</p> <p>A condition of consent requiring the allocation of 1% of the capital cost of the development towards public art is appropriate in this instance (refer to condition 35).</p>
B6- Sun Access to Public Spaces	The building will have no impact on sun access to any significant public spaces in the City Centre. The proposal is acceptable having regard to this section.

### 7.01 - Building Design Criteria

The proposal is acceptable having regard to the requirements of this section. It is noted that these requirements overlap with criteria elsewhere within the Newcastle DCP 2012 and SEPP 65.

### 7.02 - Landscape, Open Space and Visual Amenity

The proposal is identified as a 'category 3' development. In this regard, a suitably qualified Landscape Architect has prepared the submitted landscape plan.

It is considered that the proposal is acceptable having regard to the requirements of this section. It is noted that these requirements overlap with criteria elsewhere within the Newcastle DCP 2012 and SEPP 65.

### 7.03 - Traffic, Parking and Access

The parking requirements of the DCP are outlined in the below table:

	Control	Requirement
Non-residential development		
Carparking	1 space per 60m <sup>2</sup> gross floor area.	12
Bicycle parking	1 space per 200m <sup>2</sup> GFA (Class 2)	4
Motorcycle Parking	1 space per 20 car spaces	1
Residential accommodation		
Small (<75m <sup>2</sup> or 1 bedroom)	Average 0.6 spaces per dwelling	34.2
Medium (75m <sup>2</sup> - 100m <sup>2</sup> or 2 bedrooms)	Average 0.9 spaces per dwelling	61.2
Large (>100m <sup>2</sup> or 3 bedrooms)	Average 1.4 spaces per dwelling	4.2
Residential visitor parking	1 space for the first 3 dwellings plus 1 space for every 5 thereafter or part thereof for visitors	26
Residential Bicycle Parking	Bike parking of 1 space per dwelling is required unless separate storage is provided (Council determine the required class of security)	128
	1 space per 10 dwellings (Class 3) for visitors	13
Residential Motorcycle Parking	1 space per 20 car spaces	7

In summary, the proposal requires:

Modal type	Requirement	Provided	Complies
Car parking	138	136	NO
Motorcycle parking	8	15	YES
Bicycle parking	145	95	NO

Council's Engineer has provided the following assessment in relation to the proposal:

*'Seca Solution has identified that the Council DCP parking requirement for the development is 138 spaces while the SEPP 65 requirement is for only 104 spaces. The proposal provides a total of 136 spaces made up of 15 commercial / visitor spaces on the ground level (4 tandem) and 121 residential spaces on levels 1 and 2 including 20 tandem parks plus 15 motorbike parks ( 12 residential and 3 commercial) and a bike storage room for residential and commercial use on all parking levels.*

*Whilst representing a small deficiency on the DCP rate it is considered that the proposal can be supported with a small variation to the parking requirements on the basis that;*

- 1. The deficiency is small (1.4 %);*
- 2. Additional motor bike parking is provided thereby encouraging this transport mode;*
- 3. Parking is compliant with SEPP 65.*
- 4. Council has consistently provided concessions for visitor car parking in the Newcastle CBD.*

*In determining the make-up of the onsite parking it is noted that the tandem parking needs to be assigned to individual apartments or the commercial tenancy. Therefore the required make-up of parking is;*

- Ground level - 12 commercial including tandem parks plus 3 visitor car parks*
- Level 1 - Tandem car parks to 3 and 2 bedroom apartments - 4 spaces to be assigned to visitor car parking.*
- Level 2 - Tandem car parks to be assigned to 2 or 3 bedroom apartments - 3 spaces to be assigned to visitor car parking.*

*This means the entire one, two and three bedroom apartments would have parking assigned to them of 1 or 2 spaces while all the studio apartments will not have any parking assigned to it.*

*Whilst Council will support the small deficiency in car parking proposed (as assessed against Council's DCP requirements) it will require that all tandem parking be assigned to either a single apartment or the commercial tenancy while a total of 10 on-site visitor car spaces will need to be signposted on the site. The plans should identify the location of the required commercial (12 spaces) and visitor car parking (10 spaces).'*

It is noted that the application does not strictly comply with the bicycle parking requirements, however there is the provision of a reasonably sized communal bike storage room, which allows flexibility as to the demand of future occupants.

It is considered that the proposal is satisfactory in relation to the DCP parking requirements.

#### *7.05 - Energy Efficiency*

The application includes the required BASIX certificates and as discussed in the assessment is acceptable in relation to solar access and provisions in SEPP 65.

#### *7.06 Stormwater and 7.07 Water Efficiency*

Council's Engineer has made the following comments in relation to the proposal:

*'A stormwater management strategy has been prepared by Northrop consulting Engineers for the proposed development. The management strategy addresses Council DCP and general requirements to manage stormwater and drainage design.*

### Stormwater Reuse and Detention

*The concept stormwater management plan and stormwater design prepared by Northrop Consulting Engineers have allowed for a 20 KL above ground re-use tank. The re-use tanks will be located at the upper level roof area and reticulated to the top storey residential development for toilets and laundry and for irrigation for podium landscape areas.*

*A 32m<sup>3</sup> detention tank is proposed at the ground floor, which will be storing stormwater from the site.*

*The required OSD storage and water reuse is generally in accordance with Council requirements.*

### Stormwater Quality Assessment

*Stormwater assessment has been undertaken by Northrop in order to determine the impact on the ecology of the downstream watercourse. The performance of the stormwater strategy was assessed against the MUSIC software targets set in the Council's Technical Manual and the MUSIC Link and create a Water Sensitive Design for the development. The following features are noted in the design:*

- Rainwater Tanks (20 kilo litres) have been provided for reuse for the first two storeys for the residential units.*
- Gross Pollutant Traps (GPT - Humes Jellyfish) has been provided as the primary treatment measure on the discharge locations.*
- On Site Detention (OSD) basin with capacity of 32m<sup>3</sup>.*
- Discharge is proposed.*

*Northrop has done MUSIC modelling and the submitted stormwater management plan has indicated that the development achieves the targets set by Council. MUSIC model have not been provided to Council for review.*

### Drainage Connection

*The stormwater from the site is proposed to be connected to the existing drainage pit on Hunter St near the intersection. The proposed new connection location is acceptable.'*

The proposal is satisfactory in relation to stormwater management.

## 7.08 - Waste Management

The proposal includes a waste management plan. The applicant has advised:

*'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.'*

Council's Engineer has made the following comments in relation to the proposal:

*'The waste collection proposal is to service via a small utility truck by private contractor from the loading dock on the ground level. Forward entry and exit for this vehicle must be demonstrated on the plans. To me such a small collection vehicle would require more than weekly collections and perhaps a letter from a private contractor saying they are willing to collect as proposed is required.'*

The applicant has further advised:

*'There are a number of options available with regard small waste collection around the hunter, which are becoming more and more common in light of the nature of development.*

*There are container roll systems which utilise a small truck, such systems utilise vehicles which are 4.78m/1.9m/2.2m which clearances are minimal, which the development could accommodate. Other major providers do operate van type collection vehicles, whilst traditionally used for alternant types of waste, they have been increasingly utilised for general refuse collections ( for reasons of access etc). Typical collection vans are dimensions of 5.125 m/ 1.92m/1.935 -2.1m.*

*Again, the waste generated on site and in light of vehicle type may require 2 collections per week, like any managed system this would obviously not require the collection of all bins each time. The benefit of the nature of the facility means that the site would have more management in general for matters such as waste, communal areas etc*

*As mentioned whilst no specific contractor has been appointed however it will be a private contractor.'*

A condition is recommended to be placed on the consent to require the specific details of this arrangement to be provided prior to the issue of the Occupation Certificate.

#### *Section 7.09 Outdoor Advertising and Signage*

Indicative signage is identified on the elevations, however signage is not part of the current application. It is noted that above awning signage and advertisement signage are discouraged by the DCP and would not be supported. An advice is recommended to be included on the consent in relation to this issue.

#### *7.10 - Street Awnings & Balconies*

The DCP requires the provision of an awning on Hunter Street and Steel Street, which has been provided as part of the application. Relevant conditions requiring approval for the awning in the road reserve are recommended.

#### *8.00 - Public Participation*

The proposal was notified in accordance with this policy. The application was notified for a period of 14 days and no submissions were received.

### Section 94A Development Contribution Plan

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

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

No planning agreements are relevant to the proposal.

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

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

### Hunter Regional Plan

The Hunter Regional Plan provides an overarching framework to guide land use plans, development proposals and infrastructure funding decisions. The NSW Government's vision for the Hunter is to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

To achieve this vision the Government has set four goals for the region:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities
- Greater housing choice and jobs

The proposal is consistent with the aim of providing greater housing choice in existing communities, close to jobs and services and well supported by public transport and walking and cycling options.

### Lower Hunter Regional Strategy

The primary purpose of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years. The proposal is considered to achieve higher residential density in the city centre, in close proximity to existing services and infrastructure.

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

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

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

The site is located in the Newcastle City Centre in an area that is currently undergoing transformation. The design of the building has considered the context of the area, being located in a heritage conservation area. The contemporary design of the development is sympathetic to the existing buildings in the street and includes commercial spaces on the ground floor, which will assist with activating the street frontage.

The development will have positive social and economic benefits. It will facilitate employment within walking distance to public transport and local services, as well as providing employment during the construction period. The development also provides diversity in housing choice, which has a positive social impact as it allows access to housing for a variety of household types. In addition, the units do not have any significant overshadowing or privacy impacts and will provide a suitable level of amenity for future occupants.

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

Due diligence has also been conducted a part of the proposal in regards to archaeological impacts. Further work in this area is required as part of the approval to ensure that there are no impacts on Aboriginal or European archaeology if they are found on the site during construction works.

#### Acoustic Impacts

Council's Senior Environment Protection Officer (RSU) in relation to potential noise concerns has made the following comments:

*'A theoretical noise assessment was carried out by Spectrum Acoustics dated 13 May 2016 to support the proposed development. The acoustic assessment demonstrated that provided the recommendations are applied (i.e. implementing Scenario A/B) compliance with internal noise level requirements would be achieved. The acoustic assessment also theoretically assessed the plant associated with the proposed development and recommended that the plant equipment have a limiting sound power level of 96 dB(A). This will be addressed by an appropriate condition of consent'.*

The proposal is acceptable in regards to noise impacts.

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

The site is suitable for the proposed development as it is located within the Newcastle CBD and is in close proximity to the proposed Newcastle Light Rail and the Wickham Transport Interchange. The site has been identified for development of this scale and is not affected by significant environmental constraints.

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



The application was notified in accordance to the Regulations. No submissions were received.

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

The site is located in a key position and development of the site would be a significant improvement to the existing streetscape.

The development is in the public interest and it will allow for the orderly and economic development of the site. It will allow for the creation of residential accommodation in a range of apartment sizes. The development will also create employment in an accessible location, which is well serviced by public transport.

### **6. CONCLUSION**

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

### **7. RECOMMENDATION**

THAT the Hunter and Central Coast JRPP, as the consent authority, determine to grant development consent to DA2016/00654 (2016HCC036) for the erection of a 14 storey shop top housing development (comprising of 128 residential units and ground floor commercial units), two levels of parking (136 spaces) and associated works at 643 Hunter Street Newcastle West, pursuant to Section 80 of the EP&A, Act subject to the conditions in Appendix A.