

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

<b>Panel Reference</b>	2016HCC044
<b>DA Number</b>	2016/00654
<b>Local Government Area</b>	Newcastle City Council
<b>Proposed Development</b>	Demolition of existing buildings, construction of a 14 storey senior housing development comprising a 60 bed aged care facility, 74 seniors living units, two levels of parking (91 cars), ground floor retail space and associated site works.
<b>Street Address</b>	500 King Street Newcastle West (aka 745 Hunter Street Newcastle West )
<b>Applicant/Owner</b>	<b>Applicant</b> - RSL Lifecare Ltd  <b>Owners</b> - Rhaeto PTY LTD
<b>Date of DA lodgement</b>	17 June 2016
<b>Number of Submissions</b>	One (1)
<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 \$44,002,639 including GST.
<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 (Urban Renewal) 2010</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 (LEP)</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 (DCP)</li> <li>• Section 94A Development Contributions Plan 2009</li> </ul>
<b>List all documents submitted with this report for the panel's</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>

<b>consideration</b>	
<b>Report by</b>	Newcastle City Council
<b>Report date</b>	24 November 2016

### **Summary of s79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

**Yes / No**

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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?

**Yes / No / Not Applicable**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**(Has been addressed in the body of the assessment report)**

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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?

**Yes / No / Not Applicable**

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### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**Yes / No / Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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### **Conditions**

Have draft conditions been provided to the applicant for comment?

**Yes / No**

*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*

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

Development application No. 2016-00654 has been lodged with Council, seeking consent for:

- Demolition of buildings
- Construction of a 14 storey senior housing development, including
  - 74 self-contained seniors dwellings;
  - A 60 bed residential care facility;
  - A café on the ground floor;
  - Two levels of carparking (94 spaces); and
  - A community centre and other ancillary services.

The proposal was placed on public exhibition for a period of 14 days from 4 to 18 July 2016 in accordance with the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2000* (EP&A Regulations) and Section 8 of Newcastle Development Control Plan 2012 (DCP). One submission was received during the notification period.

The key issues raised in the assessment relate to the bulk, scale and design of the building. Encouraging public activation at the street level to achieve the urban renewal outcomes for the city centre and the relationship of the building to nearby heritage items as well as traffic impacts and site constraints were also considered in detail during the assessment.

The application is recommended for approval as the development will provide additional seniors residential accommodation in the city centre. The proposal will have positive economic and social benefits and will assist in the renewal of the western precinct of the city.

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'regional development' of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposed development is listed within Schedule 4A of the EP&A Act, being general development over \$20 million. The proposed development has a capital investment value of \$44,002,639 including GST.

## 1. INTRODUCTION

This report provides a detailed overview of the development proposal for the demolition of the existing buildings and construction of a 14 storey senior housing development at 745 King Street Newcastle West (500 King 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 value of works being \$44,002,639 including GST.

## 2. BACKGROUND

The subject site is located in a key precinct of the Newcastle Urban Renewal Strategy. The 'Birdwood Park precinct' is identified as the western gateway to the Newcastle City Centre. The DCP identifies the following objectives for the precinct:

- Create a sense of arrival into the city centre from the western approach.
- Promote active street frontages.
- Promote a permeable street network in Birdwood Park precinct with well-connected easily accessible streets and lanes.
- Provide new public spaces and improve pedestrian amenity, particularly to Birdwood Park.
- Improve Birdwood Park with a strong built edge and protecting sunlight access.

The application was reviewed by Council's Urban Design Consultative Group (UDCG) on 16 March and 21 April 2016 prior to lodgement of the development application. A number of issues were raised by the Group in regards to the design and the application was amended to address these concerns prior to lodgement.

## 3. SITE DESCRIPTION

The site has an area of approximately 2,628m<sup>2</sup> and is generally flat and rectangular in shape. The site is known as 500 King Street Newcastle West, (aka 745 Hunter Street Newcastle West) and comprises Lots 6 and 7 in DP95174 and Lot 8 in DP 95173. The site has a frontage to King Street of 59 metres; however it is a 'service road' section of King Street. For clarity in the report, the service road is stated as 'Little King Street'.

The site was recently used as a car sales yard and is currently used for the temporary storage of cars. Existing structures on the site include commercial buildings, including a rooftop parking area with associated ramp. The site is generally devoid of vegetation and is almost wholly hardstand.

There are a variety of different landuses in the general vicinity of the site, being predominantly commercial. Birdwood Park is located to the south of the site, across Little King Street. To the north of the site is a 13 storey short and long-term rental accommodation facility known as the 'Pinnacle' Building, an unidentified commercial building and a row of three double storey terraces.

Adjoining the site to the east is the heritage-listed Army Drill Hall, being a one to two storey brick and weatherboard building. The site to the west was previously part of the car sales yard and a development application is currently under assessment on this site for a eight storey 'Holiday Inn' hotel (Development Application No. 2016-00746 and HCC0048).



Aerial Map - 500 King Street Newcastle West (aka 745 Hunter Street Newcastle West)

## 4. PROPOSAL

The application involves:

- Demolition of existing buildings
- Construction of a 14 storey senior housing development, including:
  - 74 self-contained seniors dwellings (72x2 bedroom and 2x3 bedroom dwellings);
  - A 60 bed residential care facility;
  - A cafe on the ground floor;
  - Two levels of carparking (94 spaces); and
  - A community centre and other ancillary services.

The applicant has stated:

### 'Self-contained dwellings'

The self-contained dwellings (or 'apartments') are proposed to accommodate senior residents needing little or no living assistance on a day-to-day basis. Each of the 72 proposed 2 bedroom apartments includes a dedicated study or storage area, walk through wardrobe, main bedroom ensuite and laundry space. Both of the proposed 3 bedroom apartments include main bedroom ensuites, walk in wardrobes, laundries and walk in pantries. All dwellings will have direct access to a private balcony or patio from living rooms, with areas between 15.8m<sup>2</sup> to 85.2m<sup>2</sup>.

*Residents of the apartments will have access to the Community Centre on Level 13 which includes:*

- *2 function rooms;*
- *snooker/ billiard table;*
- *kitchen to cater for special events;*
- *book shelves;*
- *television;*
- *dining tables and lounge chairs;*
- *toilet facilities; and*
- *large outdoor terrace area.*

*The Community Centre can be used by residents for day-to-day activities (e.g. cards, knitting, reading, etc), as well as special events coordinated by RSL Lifecare. Residents will also have access to scheduled bus trips and planned activities away from the site.*

*Residents can arrange for special assistance from RSL Lifecare if and when their needs change, such as the provision of in-home nursing care, cleaning assistance and the provision of meals.*

#### Residential Care Facility

*The Residential Care Facility is proposed to accommodate senior residents requiring a high level of assistance. On-site nursing care is proposed to be available on a 24-hour basis.*

*Each of the 60 proposed RCF rooms are positioned on the perimeter of the building to allow access to natural light. Each room will accommodate a single bed, wardrobe, chair and ensuite bathroom. Six of the RCF rooms are adaptable for people in wheelchairs or other special users.*

*Both of the RCF levels contain dining and living room areas to cater for communal meals and gatherings. A terrace and balcony is proposed to accommodate outdoor seating, and a sunroom and various rest nooks will provide internal seating areas with solar access protected from winds and other elements. Additional components of the RCF include the following:*

- *hairdressing salon;*
- *assisted bath;*
- *reception and waiting areas;*
- *meal serveries;*
- *nurses' stations;*
- *laundry;*
- *office and conference room; and*
- *various utility, store and amenity rooms.*

*In addition to nursing care, residents will be provided with laundry and cleaning services. All meals will be prepared in the Ground Floor kitchen, and residents will be encouraged to take their meals in the associated café space or outdoor dining areas if desired. Alternatively, meals will be transported upstairs to the RCF in 'hot boxes', and distributed to residents from the servery on each RCF level.*

*Residents will have access to planned activities and events within the RCF, coordinated by RSL Lifecare, as well as scheduled bus trips and planned activities away from the site (as appropriate).'*

The retail space identified on the ground level is to be a cafe operated by RSL Lifecare. The cafe will prepare meals for the residents and also be open to the public. The proposal includes outdoor dining in the proposed laneway. The anticipated trading hours are 7am - 9pm, seven days per week.

Carparking spaces are proposed over two levels, accessible via a two way driveway off Little King Street.

The application proposes landscaping and communal space areas, including an outdoor dining area, 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 \$44,002,639 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 the Mines Subsidence Board (MSB). However, as the conditional approval from MSB was received by the applicant prior to the lodgement of the application, the proposal is not considered to be 'integrated development' pursuant to Section 91 of the EP&A Act. The MSB granted conditional approval on the 26 May 2016.

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

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

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

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

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

### *State Environmental Planning Policy (Urban Renewal) 2010*

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

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

The proposed development will meet the objectives of the SEPP as it will provide for higher density mixed use development in an area that will have easy access to public transport in the future. The site does not restrict future development opportunities in the area.

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

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

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

Schedule 3 of ISEPP, relates to traffic generating development and requires certain applications to be referred to the RTA (now known as the RMS). The 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.

Accordingly, the application was referred to the RMS in accordance with Clause 104 of the ISEPP on the 1 July 2016. This clause specifies that before determining a development application for development to which this clause applies, the consent authority must give written notice of the application to the RTA within 7 days after the application is made, and

*(b) take into consideration:*

*(i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*

*(ii) the accessibility of the site concerned, including:*

*(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*

*(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

*(iii) any potential traffic safety, road congestion or parking implications of the development.*

It is advised that at the date of writing, no written response had been received by Council. Should a response be provided prior to the determination meeting date, Council officers will provide this response to the JRPP for consideration.

The proposal was considered by Ausgrid in accordance with Clause 45(2). No objections were raised to the proposal, subject to conditions.

The permissibility of the proposal is facilitated through the SEPP Infrastructure. Division 10 of the SEPP allows the development of 'health service facilities' on land in a prescribed zone. The site is zoned B3 Commercial Core under the LEP and is listed as a prescribed zoned in the SEPP.

The definition of a 'health service facility' includes a hospital and this is important as it validates the permissibility of the proposed development on the site. As discussed below, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP SH) allows seniors housing and aged acre facilities on land zoned for urban purposes and where such uses including dwelling houses, residential flat buildings and hospitals are permitted. As hospitals are permitted on the site under the ISEPP, the proposed development falls under the requirements of the SEPP SH and the proposed development is thereby permissible.

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP SH)*

The development is proposed under the provisions of SEPP SH. The proposed development is permissible under the provisions of the SEPP SH on land zoned primarily for urban purposes which allows hospitals (i.e. hospitals are permissible in accordance with SEPP I). It is noted that the development is not proposed on land which would require a site compatibility certificate under Clause 24 of the SEPP SH.

The SEPP SH allows for several types of housing for seniors including the proposed 'self-contained dwellings' and 'residential care facilities'.

'Self-contained dwellings' are defined in Clause 13 of the SEPP as:

*'a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.'*

*In this Policy, serviced self-care housing is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.'*

'Residential care facilities' are defined in Clause 11 of the SEPP as:

*'residential accommodation for seniors or people with a disability that includes:*  
*(a) meals and cleaning services, and*

(b) personal care or nursing care, or both, and  
 (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,  
 not being a dwelling, hostel, hospital or psychiatric facility.'

The proposal's compliance with the requirements of the SEPP SH are summarised in the below table.

Applicable Clause	Discussion
Clause 19 - Use of seniors housing in commercial zones	The proposal satisfies this clause, in that the ground floor use fronting the street is identified as a retail premises.
Clause 26 - Location and access to facilities	<p>The applicant has provided the following comments in the SoEE:</p> <p><i>The proposal complies with this clause as the following are located not more than 400m from the site and are accessible by means of a 'suitable access pathway' with an overall average gradient of no more than 1:14 (i.e. generally level, sealed concrete footpaths provide connections between the site and the following):</i></p> <ul style="list-style-type: none"> <li>• A large range of shops and services, including several banks, at the Marketown shopping centre at Newcastle West (approximately 190m);</li> <li>• Numerous community and recreation facilities, including Birdwood Park (directly opposite the site), the Newcastle Leagues Club (approximately 170m), the Hamilton TAFE Campus (330m), and numerous sporting fields and courts at the 20ha National Park grounds (265m); and</li> <li>• The Hunter Street Medical Centre (approximately 290m).</li> </ul> <p><i>In addition, several public bus stops are located a short walking distance from the site, including the proposed Wickham Transport Interchange (approximately 275m) which will connect heavy rail, light rail, buses and taxis. The site is well-serviced by public transport, providing frequent and regular transport to other shops and services within the region. Additional details on the proposal's compliance with Clause 26 is provided within the Access Report at Appendix 7, including a bus stop location plan.</i></p> <p>The proposal is acceptable having regard to this clause.</p>
Clause 28 - Water and sewer	The proposal can be adequately serviced with water and sewer.
Clause 29 - Consent authority to consider certain site compatibility criteria for development applications to which	<p>This clause requires the consent authority to consider whether the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:</p> <p><i>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity</i></p>

clause 24 does not apply	<p><i>of the proposed development,</i>  <i>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</i>  <i>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</i></p> <p>The applicant makes the following comments in the SoEE:</p> <p><i>The subject site is within an established urban area with few environmental constraints, and is not prone to special natural hazards. Surrounding development is generally commercial in nature, and does not include any uses that would be incompatible with seniors housing. Nearby Birdwood Park will not be detrimentally affected by the proposed development, via a significant reduction in solar access or any other impacts, but will provide valuable recreational opportunities to future residents.</i></p> <p><i>The site is within the Newcastle CBD and is well serviced in terms of infrastructure and public transport services. There are also numerous retail, community and medical services within short walking distance of the site, or which are easily accessible via regular public transport.</i></p> <p><i>The proposal will have a positive impact on the local area in terms of bulk, scale, built form and character, as outlined in Section 4.8.1 of this SEE. In particular, the proposal involves improvements to the Little King Street streetscape, and the proposed height and built form will protect the solar access and amenity of Birdwood Park.</i></p> <p>The proposal is acceptable having regard to this clause.</p>
Clause 30 - Site analysis	The applicant prepared a site analysis in accordance with this clause.
Clause 33 Neighbourhood amenity streetscape - and	<p>The applicable matters identified by this clause are discussed below:</p> <p><i>The proposed development should:</i></p> <p><i>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</i></p>

	<p>It is noted that the precinct is undergoing a transition, and that the proposed built form is consistent with the planning controls for the site. The proposal has been considered by Council's UDCG and is considered to be acceptable.</p> <p><i>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</i></p> <p>Heritage matters have been discussed later in this report and the proposal does not have an adverse impact on nearby heritage items.</p> <p><i>(c) maintain reasonable neighbourhood amenity and appropriate residential character by:</i></p> <ul style="list-style-type: none"> <li><i>(i) providing building setbacks to reduce bulk and overshadowing, and</i></li> <li><i>(ii) using building form and siting that relates to the site's land form, and</i></li> <li><i>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</i></li> <li><i>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</i></li> </ul> <p>The proposal has been considered by Council's UDCG, who made specific recommendations in relation to the built form and street wall heights, which the applicant has adopted. The proposal responds adequately to the planning controls for the site in relation to setbacks and overshadowing and is considered to be acceptable.</p> <p><i>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</i></p> <p>The proposal is considered to be acceptable in relation to this clause.</p> <p><i>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</i></p> <p>The proposal is considered to be acceptable in relation to this clause.</p>
Clause 34 - Visual and acoustic privacy	The proposal is acceptable in relation to visual and acoustic privacy considerations, which have been discussed in further detail in this assessment report.
Clause 35 - Solar access and design for climate	The proposal is generally acceptable in relation to solar access considerations, which have been discussed in further detail in this assessment report.

Clause 36 - Stormwater	The proposal is satisfactory in relation to stormwater management.
Clause 37 - Crime prevention	The proposal is satisfactory in relation to crime prevention considerations.
Clause 38 - Accessibility	The application included an Access Report prepared by iaccess Consultants which makes recommendations in relation to accessibility. The application is accessible in this regard as further details will be considered at the Construction Certificate stage.
Clause 39 - Waste management	The proposal has identified that garbage will be collected via a private contractor at the kerbside. Collection is anticipated to occur twice a week and would be outside of business hours to minimise impacts on street parking. In the context of this site, this proposal is acceptable.
Clause 40 - Development standards—minimum sizes and building height	<p>This clause specifies development standards, as discussed below:</p> <ul style="list-style-type: none"> <li>• Site size - The site meets the minimum requirements of 1,000 square metres.</li> <li>• Site frontage - The site meets the minimum site frontage of 20 metres, when measured at the building line.</li> <li>• Height in zones where residential flat buildings are not permitted - The site is not within a residential zone and this clause therefore does not apply.</li> </ul>
Clause 41 - Standards for hostels and self-contained dwellings	<p>This clause specifies that a consent authority must not consent to a development application for the purpose of a self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.</p> <p>The applicant has provided an Access Report which addresses the proposals compliance with these standards in detail. A condition has been included in the consent to ensure that these standards are adopted as part of the development.</p>
Clause 45 - Vertical villages	The applicant has not requested the additional floor space ratio that can be afforded by this clause.
Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities	<p>The applicant has stated:</p> <p><i>Clauses 48 and 50 set out standards which cannot be used as grounds to refuse development consent, for RCFs and self-contained dwellings respectively. Many of these standards relate to lower-scale seniors housing developments, and do not have relevance to a high-density multi-storey development, as proposed. Accordingly, the proposal does not rely on compliance with these clauses.</i></p>
Clause 50 - Standards that cannot be used to refuse development consent for self-contained dwellings	<p>It is noted that these clauses place limitations on the ability for a consent authority to refuse applications on certain grounds. However, the application has been recommended for approval.</p>
Clause 55 - Residential care facilities for seniors	<p>The applicant has advised:</p> <p><i>Clause 55 requires that RCFs include a fire sprinkler system. The proposal will incorporate the required system.</i></p>

required to have fire sprinkler systems	The proposal is considered to be acceptable in this regard.
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*State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004*

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* State Environmental Planning Policy (SEPP) (BASIX) 2004 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 dwelling).

Accordingly the provisions of the 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 included on the development consent requiring such commitments to 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.

The following comments have been made by Council's Senior Environment Protection Officer in relation to contamination issues:

*'The Site Contamination Assessment prepared by Regional Geotechnical Solutions dated 4 April 2016 notes the proposed development has operated as a car dealership since circa 1960 and four underground storage tanks (USTs) were identified within the development footprint. Minimal sampling was undertaken to characterise potential contamination at the proposed development site. The soil sampling revealed no elevated levels of contamination, but the Site Contamination Assessment prepared by Regional Geotechnical Solutions dated 4 April 2016 noted remediation would be required in the vicinity of the USTs due to potential fuel loss from leaks. The USTs were also identified as a potential source of groundwater contamination in the Groundwater Monitoring Report prepared by MJM Environmental Pty Ltd dated 21 January 2015 where sampling revealed elevated concentrations of lead in groundwater. The use of the existing building at the proposed development site as a vehicle workshop associated with the previous car dealership was not identified in the initial contamination assessment and Council required further investigation be undertaken.'*

*The Additional Site Contamination Assessment prepared by Regional Geotechnical Solutions dated 13 October 2016 has undertaken a site inspection of the existing building at the proposed development site. Three oil sumps and an oil-water separator were identified within the existing building and represent potential areas of concern. No additional sampling was undertaken as the building was concrete slab construction. Due to no sampling being undertaken Council required a remedial action plan be submitted to demonstrate the site could be made suitable for the proposed use in accordance with the*

*requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of land and Section 5.02 of the Newcastle Development Control Plan (DCP) 2012.*

*The Remedial Action Plan (RAP) prepared by Regional Geotechnical Solutions dated 28 October 2016 outlines a preferred remediation strategy of excavation of USTs and off-site disposal of any contaminated material surrounding the USTs. The RAP prepared by Regional Geotechnical Solutions dated 28 October 2016 also includes the sampling of areas of concern beneath the existing building concrete slab after demolition and removal of any contaminated material. The implementation of the RAP prepared by Regional Geotechnical Solutions dated 28 October 2016 will potentially ensure the site can be made suitable for the proposed development. However, due to the unknown extent of potential contamination associated with the former vehicle workshop facility and requirement for removal of the concrete slab to undertake appropriate contamination assessment and remediation works the RSU considers the remediation and validation activities are be undertaken prior to the issue of a Construction Certificate. The completion of the remediation and validation activities prior to commencement of construction will ensure the remedial strategy outlined in the Remedial Action Plan prepared by Regional Geotechnical Solutions dated 28 October 2016 is appropriate and meets the objectives of Section 5.02 of the Newcastle DCP 2012. The implementation of the Remedial Action Plan prepared by Regional Geotechnical Solutions dated 28 October 2016 will be addressed by an appropriate condition of consent. The requirement for preparation and submission of a validation report to the Principal Certifying Authority (PCA) and Council prior to the issue of a Construction Certificate will be addressed by an appropriate condition of consent.'*

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 (constituted under Part 3 of the Policy), 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 principle standards of control.

Council does not have a constituted Design Review Panel under the SEPP. However, Council has an Urban Design Consultative Group (UDCG) who provided comments on the application, with extracts of the main points provided below.

<b>1. Context and Neighbourhood Character</b>	
<u>UDCG comments:</u> The changing nature of the surrounding area of Newcastle West was previously noted by the Group, with a number of approvals recently gained for redevelopment of nearby sites, some of	<u>Applicant's response:</u> <i>The subject site is in Newcastle West, close to the location of the proposed transport interchange. This area is in a state of transition, with significant,</i>

<p>which take up the opportunities of substantially greater heights and densities under the current controls. In addition to this, the Heavy rail line has been terminated nearby at Hannell Street Wickham, and a new light rail service is proposed to connect from this point for the short trip east to the to the original city centre. The presence of Birdwood Park opposite the site also represents a significant opportunity for substantially enhancing the currently rather poor ambience of the area, as outlined in the DCP. For this to occur, it is essential that easy and safe pedestrian access can be achieved across Little King Street to the Park.</p>	<p><i>commercial and residential uses being proposed and constructed together in a relatively small area.</i></p> <p><i>The site itself fronts onto Little King Street, and is occupied predominantly by single storey commercial buildings and hardstand areas, previously used as a car sales area. All buildings on the site are proposed to be demolished.</i></p> <p><i>The site adjoins the heritage listed "Drill Hall" which has an adaptive reuse proposal intended.</i></p> <p><i>To the north, the site adjoins a 13 storey mixed use development known as Latec House, and nearby is a recently developed 2 storey commercial building occupied by Lawler Partners, and numerous other 2 storey commercial buildings fronting Hunter Street.</i></p> <p><i>Birdwood Park to the south is an integral contextual component and the design has the ability to integrate and enhance the park.</i></p> <p><i>To the east, the site adjoins a 4 storey car park with ground floor retail fronting Little King Street.</i></p> <p><i>Whilst to the west of the site adjoins an 8 storey 'Holiday Inn Express' hotel development proposal, which formed part of a combined submission to the UDCG, which will be highly visual from Stewart Avenue.</i></p> <p><i>The proposal is in keeping with the future strategic vision for the area, rather than the current state, and this development has the potential to be a catalyst for a complete transformation of the area.</i></p>
<p>The site to the north-east of the subject site, designated "site D" in previously submitted master plans is marked as Lot 22 of DP 738575. The Group has been advised that this site is under the same ownership as the subject site and it is intended to develop Site D as a low rise (maximum 4 storey) development. As previously noted, retaining an acceptable level of privacy and amenity to the proposed residential care facility and seniors dwellings is dependent upon the adjacent site being limited to the heights advised, with its southern wall set back an appropriate distance to avoid overshadowing and privacy impacts. The Group recommended that the height limit and rear setback proposed by the proponents be enshrined legally on the title of site D (Lot 22).</p> <p>At its earlier presentations to the Group in March and April, documents including a very substantial building on what is described in the master plan as "Site C" which is designated Lot A of DP 161300 on the site plan A44. This site fronts Hunter Street and backs onto the Drill Hall, and is located to the east of the subject site. Some diagrams included in the subject DA 2016/0064 documents such as A104 and perspective on A108 indicate a block massing of a possible building on Site C, which may well have</p>	

<p>impacts of overshadowing and loss of privacy and views on the subject development. The Group noted that it has not been asked at any stage by the proponent or Council to comment on any proposal for Site C, nor is it understood that any proposal is imminent for the site. It should therefore not be assumed from the occasional presence in some documents of a mooted structure on this adjacent site, that any proposal for "Site C" has been considered or supported by the Group.</p>	
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## **2. Built Form and Scale**

UDCG comments:	Applicant's response:
<p>As noted previously, the proposed building has not been set back above the nominated street wall height by the distance nominated in the controls, and there is a substantial shortfall in this regard. However, as the street block is limited in its length and is broken by the presence of the low scale heritage listed Drill Hall building, adjacent, and as the tower of the building is substantially lower than the maximum permissible height for the site, the reduction in street setback of the tower element was considered acceptable in this context.</p> <p>The architects had responded positively to the pre-DA comments of the Group, and the built form of the proposal was considered to be well-resolved and likely to contribute quite positively to the area.</p>	<p><i>The site has a height limit of 90m and an allowable FSR of 5:1 (for non-commercial uses).</i></p> <p><i>The design has been considered to transition the scale over the entire site fronting Little King Street, from the west to the north-east. The adjoining Hotel proposal (block A) is the lowest of the buildings at 8 storeys, which adjoins the subject Aged Care proposal (block B) at 14 storeys, which also responds to the height of Latec House to the north. The scale of block C has the potential to be developed to the height limit of 90m, where a mixed-use tower is currently being considered, which compliments the transition in scale over the overall sites.</i></p> <p><i>Newcastle West is currently in a transition period with the area being the western gateway to Newcastle's City Centre &amp; has been earmarked to become Newcastle's future CBD. With increased height limits, the predominance of larger consolidated land holdings &amp; fewer environmental &amp; heritage constraints, this area will see an increase in multi-storey developments of which the Birdwood Park development will play an integral role.</i></p> <p><i>The built form over the development site responds to the building typology, site controls, activation of ground floor spaces and most importantly minimising</i></p>

	<p><i>the overshadowing of Birdwood Park.</i></p> <p><i>The built form as demonstrated in the shadow diagrams clearly show no loss of amenity to Birdwood Park. Although the development encroaches on the DCP guideline street/solar setbacks, the built form is a far better urban design outcome than if the development was designed to the DCP controls including the full height limit.</i></p> <p><i>The built forms have the ability to be broken down in scale, with an active street frontage presentation for the ground floor level, a defined podium with the R.A.C. F. component, and the articulation of the I.L.U.'s (independent living units) tower element will all contribute to a desirable built form.</i></p>
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### **3. Density**

#### UDCG comments:

The Group was advised that proposed FSR is within the nominated maximum nominated in the controls, and the density of the proposal was considered appropriate.

#### Council officer comments:

Noted

### **4. Sustainability**

The proponents did not outline to the panel any sustainability provisions in addition to the mandatory requirements. The Group noted that as a long term owner of the facility, RSL Lifecare were very well placed to invest in optimal plant and equipment in respect to water efficiency and energy efficiency, as operational savings will be achieved by the owner over a protracted period.

The proposal was considered to contribute positively to the social sustainability and economic sustainability of the city.

#### Council officer comments:

Noted

### **5. Landscape**

#### UDCG comments:

The landscape architects had responded positively with the recommendations of the Group, and the proposed landscaping was considered to provide an attractive outdoor environment for residents and visitors.

#### Applicant's response

*Two key landscape design elements informed the concept design and design development of the overall projects. Firstly, there is the opportunity to integrate Birdwood Park with Little King*

	<p>Street and the development. Active street frontages and landscape design to make the streetscape a shared zone will allow greater amenity and use of the currently under-utilised parkland.</p> <p>Secondly, the incorporation of a pedestrian "laneway" link from Hunter Street to Little King Street, will provide a unique urban design outcome with active frontages and landscaping throughout. This laneway not only provides a key pedestrian link from Hunter Street to Birdwood Park, but also allows the Drill Hall to open up and activate on two frontages becoming an integral gateway element to the site.</p>
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## 6. Amenity

UDCG comments:	Applicant's response:
<p>The amenity of the self-care residences was considered to be good to very good. Although the residential unit development in the former Latec House building to the north east, does cause some overshadowing of the proposal. Providing the impacts of any future building(s) on the adjacent site takes into consideration impacts of solar access reduction and view loss from any development on site "C"; and providing site "D" has height and rear setback controls imposed on its title; amenity for the development is likely to remain at an acceptable level, or better, in the future.</p>	<p>The R.A.C.F. component of the proposal, has been designed so that all of the rooms have direct access to natural light, with sitting / meeting areas located both internally and externally taking advantage of views and sunlight.</p> <p>At the rooftop level an indoor / outdoor community facility is incorporated for users of the I.L.U.'s, providing a place to meet while enjoying a high level of amenity and great views. The lobby spine of each I.L.U. level also has access to natural light and natural cross ventilation.</p> <p>The proposed I.L.U. layouts are very functional &amp; efficient, with all bedrooms &amp; bathrooms located within close proximity allowing for open plan kitchen, dining, living areas. Issues of privacy between the I.L.U.'s and Latec House has been addressed through the use of operable obscure glass louvre screening of, and the orientation of living areas &amp; balconies.</p>

## 7. Safety

UDCG comments:	Applicant's response
<p>The design of the proposal was generally considered to offer a safe environment. It was noted however that at least until the proposed pedestrian</p>	<p>Car parking is located in a secure carpark facility on ground floor &amp; level 1, accessed via Little King Street, with separate lift access directly to the either</p>

<p>laneway at the eastern side of the site is connected through to Hunter Street, it was desirable to limit after-hours access to the rear of the site.</p>	<p><i>the I.L.U. residences of the R.A.C.F. floor levels.</i></p> <p><i>Secure lobbies are provided for both the R.A.C.F. and I.L.U. components of the built form.</i></p> <p><i>There will be CCTV coverage for security purposes at the entry points of the building.</i></p>
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## **8. Housing Diversity and Social Interaction**

<p><u>UDCG comments:</u></p> <p>The proposal was considered to offer a positive contribution to the social needs of the city.</p>	<p><u>Applicant's response:</u></p> <p><i>The different use types of the overall development sites provide a positive contribution to the social context. The adjoining Hotel site will bring a new dimension to Newcastle West with visitors experiencing all that Newcastle has to offer and contributing to the economy of the city.</i></p> <p><i>The Aged Care proposal provides for an increase in demand for all levels of aged care in a unique solution that allow residents to obtain the best of care that RSL LifeCare offers, with the availability of all the social and recreational facilities on offer in a CBD environment. The benefit of the 'vertical village' concept is that it truly allows "Aging in Place", with the availability of all levels of care on the one site. RSL LifeCare has systems in place to cater for residents of all socio-economic backgrounds.</i></p> <p><i>The implementation of these two developments will create a divers social mix in the area and is in keeping with Newcastle City Council's vision for the West End.</i></p>
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## **9. Aesthetics**

<p><u>UDCG comments:</u></p> <p>The Group responded positively to the design development of the proposal, which had largely taken on the recommendations arising at Pre DA stage.</p> <p>The partial enclosure or screening of exposed balconies was considered to be a very positive aesthetic and amenity</p>	<p><u>Applicant's response:</u></p> <p><i>As the precinct is undergoing transition, the aesthetics are in keeping with the desired future character of the area. The proposed street wall heights will relate to future surrounding developments while the ground level uses activates the streetscape.</i></p> <p><i>The proposal's aesthetics reflect the</i></p>
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<p>addition to the building. While some limited areas of clear glazing to balustrades can be acceptable or appropriate, particularly on higher floors, this should be limited to not more than one third of the overall area of any balcony balustrade.</p>	<p><i>functional use of the R.A.C.F. component, forming a floating 'podium' form over the recessed ground floor retail functions. The podium is clad with materials which are sympathetic to the masonry component of the adjoining Drill Hall.</i></p> <p><i>The ground floor retail has a double height space which acts as a key corner element to the east of Little King Street, and the proposed urban pedestrian laneway. The materials of these levels attempt to ground the proposal to its site, with heavy stone finishes.</i></p> <p><i>The I.L.U.'s tower element is broken down in aesthetic for visual articulation &amp; shadow creation, with the use of balconies; changes in materials; and façade composition, all contributing to the overall urban design. The materials of the tower element complement the light-weight component of the adjoining Drill Hall.</i></p> <p><i>The cranked roof form of the rooftop community area provides an ideal crown to the development.</i></p>
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UDCG concluding comments:

*'No amendments are suggested to the proposal, other than providing a means of securing the pedestrian lane until such time as it becomes a thoroughfare, and limiting the area of clear glazing in balustrades.*

*The Group supported the proposal as a positive contribution to the area and to the city. The provision of the DCP for a low-speed shared pedestrian way in Little King Street was strongly supported. This should not become a "rat run" for vehicles shortcutting to King Street. It was also recommended that this remain a two way vehicle street.*

*The amenity of the proposal is dependent upon the height of any future building on the adjacent "Site D" being limited to 4 storeys, and its setback from the common rear boundary should also be restricted. It was recommended that this be undertaken via a legal instrument on the title of "Site D"*

It is noted that the applicant has responded to the matters previously raised by the UDCG prior to the lodgement of the application.

## 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 table 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

In relation to separation distances, the applicant notes:

*'The closest residential development to the site is the 'Pinnacle' building (former Latec House), directly to the north of the site. The Urban Design Consultative Group (UDCG) recognises that Latec House which has for decades been an intrusive presence due to its height in this lower scale area... is closer to the common boundary than would be permissible under contemporary planning controls, thus posing challenges in relation to privacy and overshadowing for the proposed aged care development.*

*The proposal strives to maximise separation distances between the tower (apartment development) and the Pinnacle building, and other developments to the north. There is a setback of over 15m between all apartments (situated on Levels 5 and above, including balconies) and the adjoining residential development within the Pinnacle building. This setback exceeds the minimum 12m recommended within the Apartment Design Guide for the maintenance of visual privacy between developments. In addition, all apartment balconies will be fitted with operable obscure glass louvre screens to further maximise privacy.*

*For development on Levels 4 and below (i.e. podium levels, including the RCF and one level of apartments) the setback to the Pinnacle building is less than 12m. For example, the north-eastern terrace on Level 4 is separated from the Pinnacle by approximately 8m, whilst there is around a 3m separation between the RCF terrace (Level 2) and the Pinnacle.*

*A number of measures are proposed on these levels to maximise privacy for residents, including the following:*

- *Landscaping of the Level 2 (RCF) terrace includes a projection of a 'rising sun' graphic to the vertical plane as a 3m high decorative screen backdrop to the terrace planting area. This will screen the existing building wall on the boundary adjoining while being a feature of the space (Plan L03, Appendix 2).*
- *The use of screening walls along the Level 2 terrace edge (northern).*
- *The planting of Purple-Leaved Cherry Plum trees and other plants along the Level 2 terrace edge (northern), and Ornamental Pear trees along the western edge, to further screen adjoining development.*
- *The planting of trees and the use of pergola structures on Level 4 to help screen adjoining development.'*

*The UDCG considered the rear separation distances of the proposed development from adjacent sites to the north. It concluded that with the now proposed changes these are potentially acceptable, subject in particular to the restrictions on 'Site D' being implemented (i.e. that future development on Site D is restricted to 4-storeys in height). Without this condition being imposed the separation of only 7500mm at the northern end could not be supported. Although separation distances to the existing residential building on the Latec House site are below ADG standards, the fact that that development provides far less than an equitable share of setbacks, and the proposed provision of adjustable full-height screens to all balconies on the new building, together would justify acceptance of the amended configuration. It is anticipated that the referenced restrictions on Site D will be implemented.*

*Accordingly, the northern setbacks of the proposed development are considered appropriate in this case, and sufficient to reasonably protect resident privacy'.*

The applicant's justification is noted in relation to building separation, as is the advice received from the UDCG who did not object to the arrangement. The proposal is considered to be 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

The proposed apartments comply with this requirement.

### 3. Unit Configuration

'Rule of thumb'	Officer comment
<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>	The ground floor commercial area has a floor to ceiling height of 3m. It is noted that this 'rule of thumb' is to facilitate flexibility of the future use of the space, rather than being essential for amenity or useability. Given the nature of the café area is to specifically support the aged care facility, the proposal is acceptable.
<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 9.58 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 a 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:

*'During the 'worst-case' solar access scenario (June 21st, mid-winter) the proposed apartments will receive the following amounts of direct sunlight to living rooms and private open spaces between 9am and 3pm:*

- *62.5% of the apartments will receive 2 hours of sunlight;*
- *12.5% of the apartments will receive approximately 0.5 hours of sunlight;*

- 25% of the apartments will receive no sunlight.

*Whilst many of the apartments will not receive the optimal 2 hours of sunlight during mid-winter, the Apartment Design Guide (Department of Planning & Environment) recognises that achieving the design criteria (i.e. 2 hours for the Newcastle LGA) may not be possible on some sites due to site constraints. As indicated on the plans, solar access to the subject site is significantly constrained by the presence of the 'Pinnacle' building (former Latec House) which is built almost to the site's northern boundary. The Urban Design Consultative Group (UDCG) recognises that Latec House which has for decades been an intrusive presence due to its height in this lower scale area... is closer to the common boundary than would be permissible under contemporary planning controls, thus posing challenges in relation to privacy and overshadowing for the proposed aged care development (p3, Appendix 5). Alternative options to addressing solar access for the tower, such as 'twisting' the built form to improve solar access, were considered during UDCG meetings (see Plans A31-A37 at Appendix 2), however, it was generally concluded that the currently proposed option provided the most appropriate design result overall.*

*It is noted that, during the summer months, 75% of apartments will receive ample solar access due to the angle of the morning sun during those periods.*

*Further, apartment residents will also have access to an area of communal open space (the terrace on level 13) which is likely to provide alternative sources of solar access at various times throughout the day. Finally, Birdwood Park is located conveniently close to the site, providing numerous alternate seating areas to enjoy the winter sunshine.'*

#### Comment

Based on the applicant's justification and considerations made by the UDCG, the proposal is considered to be acceptable.

#### **5. Storage**

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

*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

Approximately 51% of the units are naturally 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 18m. The proposal is considered to be satisfactory in this regard.

**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:

- A terrace on Level 2 adjacent to the communal living areas for the residential care facility (443m<sup>2</sup>)
- A terrace adjacent to the community facility on Level 13 (214m<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 podium 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. a senior's 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

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

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*

SEPP71 does not apply to the city centre.

*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 seniors housing and commercial premises (retail) under the LEP. Retail premises are permissible in the zone. The permissibility of the seniors housing is discussed in accordance with the SEPP (SH), which prevails to the extent of any inconsistency with the LEP.

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

*Clause 4.3 Height of Buildings*

The Height of Buildings Map has a maximum height limit for the site of 90m. The proposed development has a maximum height of 48m.

*Clause 4.4 Floor Space Ratio*

The maximum floor space ratio for the site is 8:1. The proposed development has a floor space ratio of 4.8:1 which complies with this requirement.

However, Clause 7.10 of the NLEP prevails over this clause.

*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 State listed or locally 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 positioned directly adjacent to two listed items.

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 19thc 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 adjoining items, these include:

- I508 Army Drill Hall (Local significance)
- I509 Birdwood Park (Local significance)

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

The significance of Birdwood Park is interpreted as being *"one of Newcastle oldest reserves, believed to have been named after Sir William Birdwood, WWI General in charge of the ANZAC corps. Used in the early 20th Century for boxing matches and circuses. Originally included a rotunda. Bisected by State Highway 10 in 1971"* (NCC Heritage Study). The park has local cultural heritage significance for its social, aesthetic and historical values.

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

- I161 Fig Trees in Stewart Avenue
- I501 Former Castlemaine Brewery
- I499 Bellevue Hotel
- I500 Former Bank of NSW

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

The application seeks consent to demolish the existing now vacant former motor dealership building and construct in its place a 14 storey seniors housing development.

In support of the proposed demolition, the applicant has submitted a very comprehensive and well researched Statement of Heritage Impact (SoHI) that accords with the:

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

Comment:

The SoHI argues that the existing building has little cultural heritage merit and does not meaningfully contribute to the significance of the Conservation Area. Based on the material provided, this is agreed and no objections are raised to the demolition of the existing building.

In respect of the proposed development, the proposal is an interesting use having regards to the surrounding built environment. However, 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 precinct of the Hunter streetscape. The proposed palette of materials, colours and textures are complimentary with 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. No objections are raised to the proposed demolition of the existing building provided that the works are undertaken strictly in accordance with the details as set out in the application plans, SoEE and the recommendations of the SoHI.

*Clause 6.1 Acid Sulfate Soils*

The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). The development proposes works 2m or more below natural ground level and accordingly an Acid Sulfate Soil Assessment was prepared which provides recommendations for the appropriate management of acid sulfate soils.

*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.

*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 King Street is approximately 59.5m.

*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.'*

In this regard the applicant advises:

*'As indicated on the elevations at Appendix 2 (e.g. A55), the tallest building in proximity to the site is the 'Pinnacle' building (formerly known as 'Latec House'). This development has a height less than 45m. Accordingly, this clause does not apply as no adjacent development occurs at 45 metres or higher above ground level.'*

The proposal is considered to be acceptable in this regard.

*Clause 7.5 Design Excellence*

The proposal was reviewed by Newcastle City Council's Urban Design Consultative Group (UDCG) on the 16 March 2016 and 21 April 2016, prior to lodgement of the application. The development application was reviewed again on the 26 October 2016 by the UDCG, after lodgement of the application. 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 view corridors identified in the DCP. The development has adequately addressed heritage issues, streetscape constraints, circulation requirements and has an acceptable bulk and 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 development.

The proposal is not required to undertake an architectural design competition in accordance with this clause.

*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 a cafe (retail premises). 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.

In this regard, the applicant states:

*'Although 'seniors housing' is a separately defined use, the proposed 'self-care housing' component would also appear to satisfy the definition of a 'residential flat building'. The proposed use is permitted in the zone as it is a component of a mixed-use development involving a permitted non-residential use (i.e. proposed café).'*

In this regard, it is considered that the proposal is acceptable having regard to this clause.

***Clause 7.9 Height of Buildings***

The site is not identified in "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 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 5:1.

The proposal complies as it has a FSR of 4.8:1.

***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)***

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.

***3.08 - Seniors Housing***

This section does not contain specific controls, but rather refers to SEPP SH. The proposal has been considered in accordance with SEPP SH, 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, avoiding 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:

*'This site is affected by flooding being located at the bottom end of the Cottage Creek catchment. A flood information certificate was issued by Council to Core Project Group on 16 March 2016 which summarized the flood information from Council's records.*

*The calculated local catchment 1% Annual Exceedance Probability (AEP) flood level on the site is 2.72m AHD. The minimum required floor level for occupiable rooms set by Council is 3.22m AHD and this has been achieved in the ground floor retail and entry areas.*

*In the June 2007 flood a shipping container partially blocked the downstream culvert under the railway line significantly raising flood levels in this area. The recorded peak flood level for this site was 3.2m AHD.*

*The estimated Probable Maximum Flood level on this site is 4.1m AHD. Upper floor levels will provide flood refuge for occupants and site users. The site is located in an identified flood storage area for the PMF event but calculations indicate that the loss of storage will be no more than the 20% permitted in Council's DCP.'*

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 a conditional approval was granted from the Mine Subsidence Board on 25 May 2016.

### 4.04 - Safety and Security

The applicant has advised the following in relation to safety and security:

*'The proposed development incorporates a number of features to maximise safety and security for the site, including the following:*

- Opportunities for passive surveillance of the surrounding area (including Birdwood Park) from proposed terraces, balconies and living areas;
- Opportunities for passive surveillance of the proposed laneway area through the use of the Ground Floor café (typically trading until 9pm, 7 days per week);
- Ground level café development will increase pedestrian movement within and around the site;
- Large windows to the street (within the café) provide additional opportunities for passive surveillance towards Little King Street and Birdwood Park;
- Direct, secure access is available between the carparking areas and lifts / stairs to upper levels of the building;

- Separate lifts will provide access to the RCF and apartment levels, ensuring there are minimal excuse-making opportunities for potential offenders to be in the wrong area of the building;
- Access to the carparking levels is restricted via a security gate, to be closed outside of business hours. Residents and staff will be issued with security swipe cards to gain out-of-hours access;
- CCTV cameras will be provided at building entrances, including the residential lobbies;
- The laneway area will be well-lit at night with security floodlighting (specifications to be provided at detailed design stage);
- Landscaping of the laneway comprises low-level plantings to minimise hiding places for potential offenders;
- No access to the building from the laneway area (with the exception of the café space, the entrances to which will be monitored by CCTV) could reasonably be achieved, due to the lack of windows or other openings in the area and the lack of structures which could be used as ladders to higher levels;
- The elevation of the Ground Floor above street level provides clear delineation between public and private spaces within the site, to deter intruders.

*Based on the above measures, it is envisaged that the development can be appropriately managed to minimise the potential risk of crime.'*

The proposal is satisfactory in relation to safety and security.

#### 4.05 - Social Impact

The applicant has provided the following commentary in relation to social impacts:

*'The proposed development will result in a number of positive social impacts, including:*

- the provision of much-needed seniors housing in a well-serviced and central location;
- the creation of up to 100 full-time equivalent jobs (both on and off-site, such as accounting, landscaping, cleaning and nursing roles);
- flow-on economic impacts to the local economy, both through the purchase of construction goods and services, and through purchases by residents and staff throughout the operational phase;
- an increase in the CBD population, which may result in an increased number of motivated, time-generous people into local community groups, volunteer organisations and other noteworthy causes.

*Whilst the proposal will result in an increase in the number of senior citizens in the area, many of the residents' needs will be met by the facility manager (RSL Lifecare), such as the provision of nursing, laundry and cleaning services. For this reason, it is not anticipated that the proposal will result in a detrimental or unacceptable increase in demand for publicly-funded community services or facilities within the area.'*

It is considered that the proposal is acceptable in this regard.

### 5.01 - Soil Management

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

The public submission raised concern regarding the structural integrity of underground land. This concern related to the removal of fuel tanks and the need to fill the void created. It is considered that this concern will be addressed through the remedial works on the site, and also through the typical geotechnical considerations in constructing a large development of this nature.

### 5.02 - Land Contamination

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

### 5.04 - Aboriginal Heritage

The applicant has provided the following commentary:

*'The site is within a CBD location that has a long history of site disturbance. There are no remaining site or landscape features which would indicate the likelihood of the presence of Aboriginal objects. Nevertheless, an AHIMS database search was conducted for the central lot of the subject site (Lot 7 DP 95174) plus a 50m buffer- see Appendix 14. It confirmed the absence of any recorded Aboriginal sites or Aboriginal places within the study area. Further, the proposal involves only minimal earthworks, as outlined in Section 3.2. Accordingly, the proposed development is not likely to harm Aboriginal objects.'*

An assessment in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW, 2010) has indicated that an Aboriginal Heritage Impact Permit (AHIP) is not required for this proposed development. Reference to the Aboriginal Heritage Information Management System confirmed there are no sites of Aboriginal significance recorded on the site.

The proposal is acceptable having regard to this section.

### 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 State listed or locally 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 positioned directly adjacent to two listed items.

The applicant has provided the following commentary in relation to the DCP requirements:

- *'The proposal has been designed to respect the heritage significance of the adjoining Army Drill Hall, including through the maintenance of an appropriate curtilage to the building and enhancement of the proposed laneway with military iconography.'*
- *'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 the Urban Design Consultative Group has stated that the colours, detailed forms, articulation etc are supported.'*

- *The development proposes only a single vehicular crossing, a reduction from the existing 2 into the subject site. Car parking areas will be integrated into the fabric of the building and not visible from the street. No sandstone kerbing will be disturbed.*
- *The proposed development satisfies the key development controls for the area (e.g. maximum height and FSR controls under the NLEP). A Statement of Heritage Impact has been prepared for the proposal which confirms that the proposal is beneficial and appropriate for the area. The Urban Design Consultative Group has stated that the submission is in principle a very desirable development in relation to the activities proposed and the general height, scale and density of the buildings. Accordingly, the proposal is considered to respect the character of the heritage conservation area.'*

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.

#### 6.01 - Newcastle City Centre

The site is located in the 'West End' character area of the city centre, and is within the Birdwood Park key precinct. The 'Birdwood Park precinct' is identified as the western gateway to the Newcastle City Centre. The DCP identifies the following objectives for the precinct:

- Create a sense of arrival into the city centre from the western approach.
- Promote active street frontages.
- Promote a permeable street network in Birdwood Park precinct with well-connected easily accessible streets and lanes.
- Provide new public spaces and improve pedestrian amenity, particularly to Birdwood Park.
- Improve Birdwood Park with a strong built edge and protecting sunlight access.

The specific controls contained in the DCP are discussed below.

Criteria	Comment
A1 - Street Wall Heights	<p><u>Applicant's comment:</u></p> <p><i>'The DCP calls for a street height of 22m, and a setback of 6m above the street wall height. However, the proposed street height (to top of podium) is approximately 15.7m. Further, the front setback above street wall height is less than 6m, with an approximate building (tower) setback of 3m - 4.3m and a balcony setback of approximately 1.3m from the boundary.</i></p> <p><i>The built form of the proposal, including the street height and setbacks, has been the subject of discussion with the Urban Design Consultative Group (UDCG), which noted that 'this is an unusual case where two major new adjoining buildings are being designed concurrently' (i.e. the current proposal and a proposed Holiday Inn Express building directly to the</i></p>

	<p>west), 'and the best outcome must be obtained, rather than insisting on DCP compliance. The Panel is of the strong view that a street-front podium of approximately the height proposed for the aged care building would be by far the most desirable option, and that a setback above that level of the order shown would also be appropriate. This would result in a comfortable human scale at street level, as well as providing a suitable transition in scale to the heritage-listed Drill Hall'. Accordingly, the proposed street height is considered appropriate in this case.</p> <p>Further, the UDCG noted that 'the upper levels of the RSL building have been moved closer to the front boundary, -now a 3m. setback –so that the two 'tower' buildings are close to aligning in plan along Little King Street frontage. This also has the significant advantage of increasing the separation distances to adjacent buildings on the rear boundary. Again this change is acceptable in principle, but there are serious concerns about the projection of the balconies almost to the front boundary line, making them unduly assertive. If the balconies were to be reduced in length, with their front balustrades parallel to the boundary, and were set back 1100 from the boundary for their full length, they could potentially be acceptable'. As illustrated in the plans, the balconies have been reduced in length in the current design and are to be setback more than 1,100mm from the boundary (i.e. now 1.3m). Accordingly, the proposed setback above street height is also considered appropriate in this case.'</p> <p><u>Comment</u></p> <p>The DCP contains a specific street wall height for the site, being 22 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 15.7m and a front setback above this height of 3-4.3m (a balcony setback of approximately 1.3m from the boundary). While this is a departure from the DCP, Council officers have afforded significant weight to the UDCG comments, which are supportive of this variation.</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	The subject site will not accommodate more than one building, and accordingly the provisions of this clause do not apply.
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>Applicant's comment:</u></p> <p><i>'The proposal slightly exceeds the control, with a GFA of approximately 939m<sup>2</sup> on levels 4- 12, and a maximum building depth of approximately 24m (excluding balconies).</i></p> <p><i>However, the built form and scale of the proposal has been the subject of discussion with the UDCG. The UDCG found that the planning and amenity of...the aged care buildings are generally acceptable and amenity generally should be of a reasonable standard. Accordingly, the proposed floor plate and building depth are considered to be acceptable in this case.</i></p> <p><i>The tower component (above street height) has a maximum building length of less than 50m (i.e. approximately 44m, excluding balcony projections).</i></p> <p><i>The proposal allows for natural ventilation and light to the ground floor retail space through the use of bi-fold windows and clerestorey windows to the façade.'</i></p> <p><u>Comment</u></p> <p>The proposal is acceptable having regard to the nature of the proposal and the comments from UDCG.</p>
A5 - Building Exteriors	The proposal adequately responds to the performance criteria of the DCP. The proposed materials and finishes have been considered by the UDCG.
A6 - Heritage Buildings	As discussed in this assessment, the proposal is considered to be acceptable in relation to heritage matters.
A7 - Awnings	The application provides awnings as required by the DCP.
A8- Design of Parking Structures	<p><u>Applicant's comment:</u></p> <p><i>'The proposal involves 2 levels of above-ground parking, however, this component is fully integrated into the fabric of the building, including the setback of carparking behind ground-level retail uses and residential lobbies. Natural ventilation panels (e.g. along the potential laneway) are successfully obscured with patterned perforated mesh war memorial motifs, as indicated in the image below. The UDCG has reviewed the proposed development during 2 meetings, including consideration of the carparking component, and has provided its general endorsement of the building's design.'</i></p>

	<p><u>Comment</u></p> <p>The proposal is acceptable in this regard.</p>
B1 - Access Network	<p>In this regard, the applicant advises:</p> <p><i>'The DCP recommends the improvement of existing pedestrian spaces along Little King Street, and the creation of a potential pedestrian link between Little King Street and Hunter Street, to the west of the subject site.</i></p> <p><i>The proposal includes the enhancement of the Little King Street streetscape via paving and planter boxes, as indicated in the landscape documentation. It also proposes a connection to Hunter Street via a potential laneway along the eastern boundary, subject to future development of the adjacent site (to the north). This position is considered most beneficial as it is more central to the development block (providing the greatest time-saving benefit to pedestrians), will allow for the maintenance of an appropriate curtilage to the heritage-listed Army Drill Hall, enhanced public viewing opportunities to the Hall, and visual integration to be achieved between the RSL use of the subject site (including war memorial-themed motifs throughout the laneway) and the former military use of the Drill Hall. The UDCG considered that the laneway, in its proposed position, would potentially be attractive, subject to it being adequately activated when the Hunter Street stage is complete. Appropriate wayfinding signage will be incorporated into the final detailed design of the laneway, should it proceed.</i></p> <p><i>The proposed laneway has been designed with reference to the City Centre Technical Manual. The DCP calls for a minimum width of 5m, however, the proposed laneway involves a minor departure from this control with a proposed 4.5m width. This width is considered appropriate to incorporate the attractive and screening landscaping features proposed, whilst maintaining a feeling of safety and openness.'</i></p> <p><u>Comment:</u></p> <p>The proposal is acceptable in this regard. Appropriate conditions of consent requiring a positive covenant for public access in the laneway is recommended.</p>
B2 - Views and Vistas	<p>The subject site will not impact on any identified views or vistas. The proposal is acceptable having regard to this section.</p>
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 retail component, which comprises approximately 51% of the frontage. While this is strictly non-compliant, it is noted that this is a function of the entrances</p>

	<p>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 applicant also notes:</p> <p><i>'The proposed ceiling height of the proposed café use is less than 4m (just under 3m), however, this height is considered appropriate for a range of retail uses.</i></p> <p><i>The proposed ground floor level is necessarily raised above the level of the footpath in response to the flooding constraints of the site. However, equitable pedestrian access is maintained through the provision of a wheelchair-accessible ramp.'</i></p> <p>The proposed street activation is well resolved by the application and has considered the constraints of the development and the site.</p>
B4 - Addressing the street	<p>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.</p>
B5 - Public Art	<p>The DCP requires that developments over 48m in height are to allocate 1% of the capital cost of the development towards public art for development. In this regard, the applicant advises:</p> <p><i>'The proposal involves a number of artistic elements which serve as public artwork. For example, a custom fabricated pole sculpture consisting of a number of stylised 'Poppy' flower interpretations, is proposed within the potential public laneway along the site's eastern boundary. In addition, several interpretative perforated metal screens with war memorial themes will be positioned along walls lining the laneway - refer to the landscaping documentation. For this reason, an additional capital cost allocation for the purposes of public artwork is considered unreasonable and unnecessary in this case.</i></p> <p><i>The 'war memorial' themes and artworks proposed will serve to neatly complement the military heritage significance of the adjacent Army Drill Hall, and the RSL use of the subject site.'</i></p> <p>While noting the applicant's design features incorporated into the building, it is considered that to satisfy the requirements of the DCP, a condition of consent requiring the allocation of 1% of the capital cost of the development towards public art is appropriate in this instance.</p>
B6- Sun Access to Public Spaces	<p>The DCP requires that sunlight access is to be provided to Birdwood Park for at least two hours during mid-winter between 9am and 3pm. In this regard, the applicant advises:</p> <p><i>'As indicated in the shadow diagrams at Appendix 2, while shadows over Birdwood Park will be increased from the current scenario, these shadows will traverse</i></p>

	<p><i>the Park rapidly due to the relatively slender form of the proposed tower. Accordingly, the Park is estimated to receive sun to around 65% of its area at 12 noon, and around 80% of its area at 3pm.</i></p> <p><i>It is important to note that the proposed development will create significantly less overshadowing than what would be permitted by a building built to the maximum allowable bulk and scale under the NLEP and DCP controls. The proposed building has a height significantly less than the 90m permitted, resulting in substantially less overshadowing of the Park. Further, the Urban Design Consultative Group (UDCG) has reviewed the proposed development, and raised no concerns with regard to overshadowing impacts on the Park.'</i></p> <p>The proposal is acceptable under this clause.</p>
Key Precincts Birdwood Park Precinct	<p>The DCP identifies Birdwood Park and the surrounding sites as a 'key precinct', acknowledging that the site is the western gateway to the city centre. The DCP encourages Little King Street to be a shared zone for cars and pedestrians, and reinforces the need to maintain solar access to the park. A specific street wall height of 22 metres is identified for the development site, and that a pedestrian link be established from Little King Street to Hunter Street on the eastern side of the 'Drill Hall'.</p> <p>The applicant advises:</p> <p><i>'The DCP calls for a proposed new pedestrian link (between Hunter Street and Little King Street) to the east, beyond the boundaries of the subject site. However, the currently proposed position of the potential laneway is considered most appropriate as it is more central to the development block (providing the greatest time- saving benefit to pedestrians), will allow for the maintenance of an appropriate curtilage to the heritage-listed Army Drill Hall, enhanced public viewing opportunities to the Hall, and visual integration to be achieved between the RSL use of the subject site (including war memorial-themed motifs throughout the laneway) and the former military use of the Drill Hall. The UDCG considered that the laneway, in its proposed position, would potentially be attractive, subject to it being adequately activated when the Hunter Street stage is complete.'</i></p> <p><i>The laneway design integrates appropriately with the proposed ground floor café use of the site, including a proposed outdoor dining use within part of the laneway.</i></p> <p><i>The proposed building's bulk is significantly articulated into at least 3 distinct horizontal forms. The appearance of building bulk is further reduced through</i></p>

	<p><i>the use of multiple façade treatments, including the use of balconies and pop-out window shading boxes, varying materials and colour palettes, and landscaping of the podium parapet.</i></p> <p><i>As indicated in the shadow diagrams, while shadows over Birdwood Park will be increased from the current scenario, these shadows will traverse the Park rapidly due to the relatively slender form of the proposed tower.</i></p> <p><i>Accordingly, the Park is estimated to receive sun to around 65% of its area at 12 noon, and around 80% of its area at 3pm.</i></p> <p><i>It is important to note that the proposed development will create significantly less overshadowing than what would be permitted by a building built to the maximum allowable bulk and scale under the NLEP and DCP controls. The proposed building has a height significantly less than the 90m permitted, resulting in substantially less overshadowing of the Park. Further, the Urban Design Consultative Group (UDCG) has reviewed the proposed development, and raised no concerns with regard to overshadowing impacts on the Park.</i></p> <p><i>The Council has responsibility for the form and use of Little King Street. However, the proposal involves public domain works adjacent to the subject site and the road carriageway, in the form of improved pedestrian paving, bollards and the 'making good' of redundant kerb breaks. Street furniture is proposed within the boundaries of the subject site via bench seating surrounded by feature planting.</i></p> <p><i>The proposal involves a single driveway crossing, to be positioned close to the western boundary, away from key areas of pedestrian movement associated with the potential laneway and outdoor dining areas. Bollards are proposed to be positioned near the driveway, to alert pedestrians to the presence of the driveway and maximise safety.'</i></p> <p>Having regard to the intent of the precinct controls and the advice from the UDCG in relation to street wall heights and setbacks, the proposal is acceptable.</p>
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## 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:

	<b>Control</b>	<b>Requirement</b>
Seniors Housing 'self-contained dwellings' (rates per SEPP SH)	0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider	75 (150 bedrooms)
Seniors Housing 'residential care facility' (rates per SEPP SH)	if at least the following is provided: (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and (iii) 1 parking space suitable for an ambulance.	6 6 1
Retail component	1 space per 60m <sup>2</sup> GFA	4.3
<b>TOTAL</b>		<b>92.3</b>

The proposal provides 94 car parking spaces, and accordingly complies with the SEPP requirements.

The SEPP does not require the specific provision of motorbike and bicycle parking for the Seniors Housing component. The DCP requires the provision of three bicycle spaces for the proposed cafe. The proposal provides a bike store room near the entrance and eight motorcycle/scooter spaces. It is considered that this provision is appropriate.

## 7.04 - Movement Networks

The applicant advises:

*'The proposal includes a potential laneway connection to Hunter Street (subject to future development of the adjacent northern site). This laneway will provide a logical, attractive and convenient extension to the existing pedestrian networks on Little King Street and Hunter Street.'*

The proposed laneway is considered to be acceptable as a privately owned facility.

### *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:

*The site has an area of approximately 2,630m<sup>2</sup> with a 66m<sup>3</sup> onsite detention tank proposed to control site discharge. The proposed stormwater management system satisfies Council's DCP requirements.*

The proposal is satisfactory in relation to stormwater management.

### *7.08 - Waste Management*

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

- *'Residential (apartment) waste, and combined waste from the RCF and retail component, will be stored in separate bin storage rooms within the Ground Floor;*
- *Waste chutes will be positioned on every apartment floor to allow the safe and efficient transport of general waste to the bin storage room. Separate recycling bins will be provided within the storage room for use by residents;*
- *Waste from the RCF will be collected in large bins and regularly transported via lift to the Ground Floor bin storage rooms;*
- *Specialised waste (e.g. biological waste) from the RCF will be stored within the RCF and collected regularly by specialised contractors;*
- *General waste will be collected from the site twice weekly by private contractors;*
- *Recycling waste will be collected from the site twice weekly by private contractors;*
- *Private contractors will wheel the bins to the kerb for collection using a side-loading collection vehicle.'*

The waste strategy proposed is acceptable.

### *7.10 - Street Awnings & Balconies*

The DCP requires the provision of an awning on King Street, which has been provided as part of the application. The 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 one submission was received. The submission received is discussed later in this report.

### Newcastle 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 Newcastle Section 94A Development Contributions Plan. A contribution of 2% of the cost of development would be payable to Council as determined in accordance with clause 25(j) of the Environmental Planning and Assessment Regulation 2000.

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

No planning agreements are relevant to the proposal.

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

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

##### **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***

Further to the discussion in this report, additional impacts of the proposal are discussed below.

##### **Traffic and Parking**

The site has a frontage to Little King Street, and is within 90m of a classified road, Stewart Avenue, which is considered to be a major arterial road. Little King Street is a local road under the care and control of Council, and currently used as a thoroughfare

'rat-run' for vehicles entering the Newcastle CBD. The Newcastle Urban Renewal Strategy (NURS) has identified opportunities for Little King Street, in promoting a permeable street network in the Birdwood Park precinct with well-connected easily accessible streets and lanes. The NURS also seeks to improve pedestrian amenity, particularly to Birdwood Park.

The submitted development application does not preclude these opportunities, but rather the increased residential population and street activation will support this vision.

#### *Access and servicing*

In relation to the access arrangements, the applicant's Traffic Consultant has advised:

*'Building frontage is to Little King Street with vehicular access also being via a new median separated entry and exit driveway off Little King Street to a secured multi-level car park (two levels) within the building. The existing vehicular accesses are to be removed as part of the development works which include the reconstruction of the kerb and footpath along the frontage of the development.'*

*Access to the proposed development is proposed via a combined entry / exit driveway approximately 7 metres wide to Newcastle City Council requirements directly off Little King Street approximately 75 metres east of Stewart Avenue.*

*It is concluded that the proposed vehicular access to the on-site car parking is compliant with Australian Standard AS2890.1-2004 Parking Facilities – Part 1 Off-street car parking and therefore satisfactory for the development.'*

The applicant has advised that a mini bus will be provided for future resident's day to day needs, and the provided bus will vary between a 12 & 22 seater (depending on the event). This bus can access the onsite car parking area for loading and unloading of passengers.

In relation to servicing, the applicant's Traffic Consultant has advised:

*'Servicing arrangements are satisfactory with small vehicle servicing to be carried out onsite within the proposed car park and larger vehicle servicing utilising a proposed loading zone area on Little King Street adjacent to the development which is proposed within the public domain works on Little King Street.'*

*Waste collection from the site is proposed to be via private contractor using larger bins that will be wheeled to the kerb by the driver and picked up from the kerb using a side loading collection vehicle. This service is common for multi-story buildings in the Newcastle CBD area which results in only minor inconvenience to development traffic entering and exiting the site during non-peak periods for a maximum 15 minute duration particular considering the driver is always within close proximity of the collection vehicle. It is concluded that the proposed servicing arrangements for the development are satisfactory.'*

Council's Senior Development Officer (Traffic) raised no concerns in relation to the proposed access and servicing arrangements

### Traffic

A Traffic Report was submitted with the application and the data provided confirms that the streets surrounding the site are capable of servicing the development. The applicant's Traffic Consultant has advised:

*'The local road network has sufficient spare mid-block capacity to cater for the additional development traffic generated by the proposal and other developments in the area without the need for any road upgrading works.'*

*SIDRA modelling of the Stewart Avenue / King Street / Parry Street signalised intersection and the Stewart Avenue / Hunter Street signalised intersection has shown that the proposed development on its own does not adversely impact on the operation of these intersections.*

*The SIDRA modelling also showed that these intersections are operating at near capacity and future growth in the Newcastle CBD will see these intersections reach capacity in the near future unless road network upgrades and changes occur or a modal trip making shift occurs to public transport trip making. This is however considered a regional problem requiring a regional solution and is not the responsibility of one particular development.'*

Upon reviewing the scale and type of the development proposed for the site, and the resulting increase in pedestrian activity in this area, it is considered appropriate that the developer improve the streetscape across the frontage of the site and improvements to pedestrian facilities. In this regard appropriate conditions are recommended reconstruction of the footway across the frontage of the site with appropriate street trees and the provision of two raised marked foot crossings to cater for the increased pedestrian activity between the site and Birdwood Park. The public domain works will be required to be in accordance with the City Centre Public Domain Technical Manual. The applicant will also be required to address regulatory signage across the frontage of the site.

The recommended conditions also require a Construction Traffic Management Plan to be submitted to Council for approval prior to the commencement of site works. This plan is to detail installation of advance warning signs for motorists in the public road reserve of construction traffic / truck movements. These signs are to be installed in accordance with AS 1742.3 – Traffic Control Devices for Works on Roads.

### Parking

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

	<b>Control</b>	<b>Requirement</b>
Seniors Housing 'self-contained dwellings' (rates per SEPP SH)	0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider	75 (150 bedrooms)
Seniors Housing 'residential care facility' (rates per SEPP SH)	if at least the following is provided: (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility	6

	provides care only for persons with dementia), and (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and (iii) 1 parking space suitable for an ambulance.	6 1
Retail component	1 space per 60m <sup>2</sup> GFA	4.3
<b>TOTAL</b>		<b>92.3</b>

The proposal provides 94 car parking spaces, and accordingly complies with the SEPP requirements.

The SEPP does not require the specific provision of motorbike and bicycle parking for the Seniors Housing component. The DCP requires the provision of three bicycle spaces for the proposed cafe. The proposal provides a bike store room near the entrance and eight motorcycle/scooter spaces. It is considered that this provision is appropriate.

#### *Bicycle Parking and End User Facility*

The development has provided a bike store room for residents and staff who may intend to use alternative transport, as well as a shower facility for staff. The end user facilities provided allow for the promotion of an alternative transport mode, including bicycle riding, running, walking and other forms of travel, which will assist in a sustainable City.

#### *Green Travel Plan*

A green travel plan can be developed for the site including alternative modes of transport including bicycles and public transportation. A condition has been placed on the consent in this regard. The provision for secured bicycle spaces and end of user facilities will promote alternative transport which will assist in a sustainable City.

#### *Conclusion*

It is noted that the public submission received raised concerns in relation to parking and traffic including:

- Insufficient parking for residents and support staff;
- Insufficient visitor parking that allows easy access, which could lead to social isolation;
- Additional traffic congestion, adding to existing issues;
- Other areas of the LGA have a more suitable traffic environment for this form of development.

As detailed in the assessment, in summary the proposed development is considered to be acceptable in terms of parking, access and traffic impacts.

#### Stormwater and Flooding

The public submission received raised concerns in relation to stormwater management including:

- Concern in relation to existing stormwater drainage in Little King Street.

- Existing flooding occurs to the car parking of adjoining buildings

As detailed in the assessment, Council's Senior Development Officer (Engineering) has advised that the proposal is satisfactory having regard to Council's development controls.

### Solar access and overshadowing

The public submission received raised concerns in relation to the loss of solar access to surrounding buildings. The concerns included:

- That overshadowing of existing buildings by the proposed building is significant, which would be unenjoyable and unhealthy to residents.
- The southern residents of the 'Newcastle Central' building will be impacted on in terms of their ability to have gardens.

Solar access to future occupants has been discussed in this assessment, as has the overshadowing impacts to Birdwood Park. The 'Newcastle Central' building, being to the north of the proposal, is not likely to be significantly impacted in relation to overshadowing.

It is considered that the proposal is acceptable in this regard.

### Views

The public submission received raised concerns in relation to views, including that views from the adjoining 'Newcastle Central' building would be affected. The concerns include that the 'serviced apartment' business, would become financially unstable through the loss of property value and depreciation of the business.

The applicant has provided the following comments in relation to views:

*'Many proposed apartments - particularly at the higher levels - will benefit from far-reaching views from living spaces and private open spaces, including to the surrounding city centre (in all directions), Birdwood Park (to the south) and areas of the Harbour and foreshore (to the north-east and further east). Views directly to the north are constrained by the 13-storey 'Pinnacle' building (former Latec House). However, only a small number of apartments are likely to be affected (around one on each floor) - refer to Figure 14 below. Alternative viewing points for residents can be obtained from the communal terrace area on Level 13.'*

*'The subject site and surrounding area do not benefit from any key views or vistas as identified within the DCP. The site is significantly separated from the Harbour, with numerous large- scale developments in between. Most development surrounding the site in any direction comprises commercial uses (with the exception of the 'Pinnacle' building to the north). For this reason, the proposed building is not likely to significantly affect views for the majority of surrounding development. Views directly to the south for residents of the Pinnacle building will be affected by the proposed building. However, views to the (arguably more valuable) north, west and east will still be widely available to those residents. Due to the site's CBD location, some loss of views for adjacent development is considered to be reasonable.'*

*It is noted that the NLEP envisions the subject area as containing the tallest building elements in the CBD. However, the proposed building height is significantly less than the maximum height permissible on the site under the NLEP (90m), and therefore impacts on views are significantly less than those which could conceivably be permitted.'*

The applicant's comments are noted and are considered to be reasonable. It is considered that the proposal is acceptable in relation to view loss.

### Social Impact

The applicant has advised:

*'The development is to be known as the 'Peter Badcoe VC' residential care facility and the 'Long Tan' independent living units. The facility is proposed to be owned and operated by RSL Lifecare, a large, charitable, community-focused organisation which provides for the needs of veterans and all senior Australians.'*

*The proposed development proposes a number of features to accommodate people with disabilities or other special needs, including the provision of 6 adaptable RCF rooms, 2 accessible RCF visitor parking spaces, ramps and/or level walkways within all areas of the building and grounds, and lifts to all levels of the building.*

*An Access Report has been prepared for the proposal by iAccess Consulting (see Appendix 7). The Report has been prepared based on the development plans and is intended to ensure that the proposal complies with the Disability (Access to Premises) Standard 2010, the Housing for Seniors SEPP and the accessibility standards identified in the AS 1428 suite of standards.*

*Overall, the Report indicates that the proposal generally complies with the various accessibility standards.'*

Council's Social Planner has provided comments in relation to the proposal.

*'Overall, the proposed location would suit a seniors development as it is in close proximity to retail, commercial, service and recreation activities and public transport nodes (bus, train/ light rail interchange and taxi)'*

Concern was raised regarding the number of 'adaptable' units proposed in the residential care facility. However, the acknowledgment of the building being an 'aged care building' rather than a 'health-care building' under the National Construction Code Volume One 2015, was made. The proposal complies with the provision of adaptable units in this regard.

The access to sunlight and the associated amenity for the residents has been considered in the assessment. It is considered that the application is generally acceptable in relation to solar access, as discussed in this assessment. It is noted that some occupants may have difficulty getting to the communal terrace areas. While not ideal, access to communal areas with solar access will supplement the limited solar access to some occupants, and access to these areas can be managed by staff if needed.

In general, it is considered that the proposal will have positive social impacts, in providing a needed form of accommodation for seniors or disabled persons in the city

centre. It is acknowledged that variety in the style and location of this form of residential accommodation is desirable, to meet the varied needs of residents.

### Acoustic Impacts

The following comments have been made by Council's Senior Environment Protection Officer in relation to potential noise concerns:

*'The proposed development is located within a high traffic area, between Hunter and King Streets and within proximity of Stewart Avenue, and traffic noise may potentially affect the amenity of future occupants. To protect the amenity of future occupants compliance with internal noise levels outlined in the Department of Planning's 'Development near rail corridors and busy roads – Interim Guideline' and Australian Standard 'AS 2107 – 2000 Acoustics – Recommended design sound levels and reverberation times for building interiors' is required. The Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 has calculated the traffic noise impacts from the surrounding roads at the facades of the proposed development. Due to the calculated received noise level the Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 determined acoustic measures will be required to ensure compliance with the recommended internal levels. The Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 has utilised the methodology outlined in the Department of Planning's 'Development near rail corridors and busy roads - Interim Guideline' to determine the recommended acoustic treatment of external walls, ceilings and windows to ensure internal noise levels are satisfactory. The recommended acoustic measures are required to be incorporated into the design of the proposed development and a sign-off from the acoustical consultant is needed. The implementation of the acoustic measures will be addressed by an appropriate condition of consent.'*

*The Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 notes mechanical plant will be located on top level of the proposed building with additional plant in the carparking area. The rooftop plantroom has the potential to generate adverse noise impacts for the existing residential tower located at 741 Hunter Street. The Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 has undertaken an analysis of the potential noise impacts from the rooftop plantroom and the received noise levels will not exceed the project specific noise criteria subject to the implementation of acoustic mitigation measures. The acoustic mitigation measures include the treatment of plantroom walls and installation of acoustic louvres. The installation of the recommended acoustic mitigation measures will be addressed by an appropriate condition of consent.*

*The Floor Plans prepared by EJE Architecture show two levels of carparking within the proposed development. The Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 has undertaken an assessment of potential noise impacts from vehicles manoeuvring within the carparking area on the adjoin residential building on Hunter Street. The Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 concludes the noise from vehicles will not generate adverse noise impacts subject to the installation of acoustic louvres. The installation of acoustic louvres on the carparking area facing the residential tower at 741 Hunter Street will be addressed by an appropriate condition of consent.*

*The Ground Floor Plan prepared by EJE Architecture shows a ground floor café with outdoor seating. Noise from the café including patrons within the outdoor seating area has the potential to generate amenity impacts for both occupants of the proposed development and existing residential receivers. The Noise Impact Assessment prepared by Spectrum Acoustics dated May 2016 has undertaken an analysis of the potential noise impacts from patrons on the proposed units within the building and concluded the noise will not exceed the project specific noise criteria. The Statement of Environmental Effects (SEE) prepared by City Plan Services dated 15 June 2016 notes the operation of the proposed café will be limited to 7:00am to 9:00pm daily and an appropriate condition of consent will be included restricting the operation of the café to the nominated hours. '*

The public submission received raised concerns in relation to noise, including that the nature of the proposal is out of character with a business district. The concern specifically stated that noise created in a business precinct may unreasonably impact on residents of the facility. As detailed above, the submitted Noise Impact Assessment has demonstrated that with appropriate construction materials, the proposal will be appropriate attenuated from external acoustic impacts, and will not unreasonably impact on neighbouring properties.

#### Character, bulk and scale

The character, bulk and scale of the proposal have been discussed in this report, in the context of the SEPP65 guidelines, LEP and DCP controls. The proposal is considered to be acceptable in this regard.

#### Privacy

The public submission received raised concerns in relation to the loss of privacy to surrounding buildings.

In relation to privacy, the applicant advises:

*'Issues of privacy between the I.L.U.'s and Latec House has been addressed through the use of operable obscure glass louvre screening of, and the orientation of living areas & balconies.*

#### *Within the site*

*Appropriate separation is proposed between all private open space areas within the site (balconies and terraces), in order to maintain internal resident visual and acoustic privacy (see the plans at Appendix 2). Internal acoustic amenity between apartments is also maximised through the positioning of bedrooms away from adjacent living areas, and through the use of internal walls of appropriate thickness for acoustic attenuation.*

#### *Relationship with adjacent development*

*The closest residential development to the site is the 'Pinnacle' building (former Latec House), directly to the north of the site. The Urban Design Consultative Group (UDCG) recognises that Latec House which has for decades been an intrusive presence due to its height in this lower scale area... is closer to the*

common boundary than would be permissible under contemporary planning controls, thus posing challenges in relation to privacy and overshadowing for the proposed aged care development (p3, Appendix 5).

The proposal strives to maximise separation distances between the tower (apartment development) and the Pinnacle building, and other developments to the north, as illustrated in Figure 15 below. There is a setback of over 15m between all apartments (situated on Levels 5 and above, including balconies) and the adjoining residential development within the Pinnacle building. This setback exceeds the minimum 12m recommended within the Apartment Design Guide for the maintenance of visual privacy between developments. In addition, all apartment balconies will be fitted with operable obscure glass louvre screens to further maximise privacy.

For development on Levels 4 and below (i.e. podium levels, including the RCF and one level of apartments) the setback to the Pinnacle building is less than 12m. For example, the north- eastern terrace on Level 4 is separated from the Pinnacle by approximately 8m, whilst there is around a 3m separation between the RCF terrace (Level 2) and the Pinnacle.

A number of measures are proposed on these levels to maximise privacy for residents, including the following:

- Landscaping of the Level 2 (RCF) terrace includes a projection of a 'rising sun' graphic to the vertical plane as a 3m high decorative screen backdrop to the terrace planting area. This will screen the existing building wall on the boundary adjoining while being a feature of the space (Plan L03, Appendix 2).
- The use of screening walls along the Level 2 terrace edge (northern).
- The planting of Purple-Leaved Cherry Plum trees and other plants along the Level 2 terrace edge (northern), and Ornamental Pear trees along the western edge, to further screen adjoining development.
- The planting of trees and the use of pergola structures on Level 4 to help screen adjoining development.

The UDCG considered the rear separation distances of the proposed development from adjacent sites to the north. It concluded that with the now proposed changes these are potentially acceptable, subject in particular to the restrictions on 'Site D' as discussed above being implemented (i.e. that future development on Site D is restricted to 4-storeys in height - see Figure 15). Without this condition being imposed the separation of only 7500mm at the northern end could not be supported. Although separation distances to the existing residential building on the Latec House site are below ADG standards, the fact that that development provides far less than an equitable share of setbacks, and the proposed provision of adjustable full-height screens to all balconies on the new building, together would justify acceptance of the amended configuration (p5, Appendix 5). It is anticipated that the referenced restrictions on Site D will be implemented.

Accordingly, the northern setbacks of the proposed development are considered appropriate in this case, and sufficient to reasonably protect resident privacy.'

The design of the proposal has adequately resolved privacy impacts.

### Construction

The following comments have been made by Council's Senior Environment Protection Officer in relation to construction stage of the proposal:

*'The Construction Noise and Vibration Management Plan prepared by Reverb Acoustics dated July 2016 notes the long duration of the proposed construction period and the potential for construction noise and/or vibration to generate adverse impacts for the residential tower at 741 Hunter Street. The Construction Noise and Vibration Management Plan prepared by Spectrum Acoustics dated July 2016 has undertaken a quantitative assessment of construction noise and identified bore piling as the principal source of potential noise. Measures outlined in the Construction Noise and Vibration Management Plan prepared by Reverb Acoustics dated July 2016 will be undertaken to reduce from construction activities in accordance with the NSW Environment Protection Authority's (EPA) 'Interim Construction Noise Guidelines'. These measures should be outlined in a noise management strategy within an overall construction environmental management plan (EMP). The requirement for preparation of a noise management strategy within a construction EMP may be addressed by an appropriate condition of consent.'*

*The Construction Noise and Vibration Management Plan prepared by Reverb Acoustics dated July 2016 notes pile driving will not be required as part of the construction of the proposed development. A restriction regarding pile driving at the proposed development site is appropriate to prevent adverse noise or vibration impacts. Restriction of the use of pile driving may be addressed by an appropriate condition of consent.*

*Construction activities will be limited to the daytime period only, 7:00am to 6:00pm Monday to Friday and 8:00am to 1:00pm Saturdays. These hours of construction are in accordance with the NSW EPA's 'Interim Construction Noise Guidelines'. The restriction of the hours of construction may be addressed by an appropriate condition of consent.*

*Community notification of the proposed demolition and construction should be undertaken prior to commencement of works to ensure surrounding properties are aware of the upcoming works. The community notification should identify forthcoming works that are likely to produce noise impacts and provide contact details for the purpose of receiving any complaints from members of the public in relation to activities conducted on-site. The community notification strategy should be documented in the construction EMP and undertaken prior to works commencing. The requirement for preparation of a community notification strategy may be addressed by an appropriate condition of consent.'*

It is considered that subject to conditions, that the proposal can be appropriately managed.

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

The site is suitable for the proposed development as it is located within an urban renewal precinct due to its location on the western edge of the city and close proximity to 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 and advertised in accordance to the Regulations and one submission was received, which has been discussed in detail under Section 8 of the DCP.

The issues raised in the submission are summarised below:

- Traffic and parking
- Stormwater management
- Contamination
- Structural integrity of underground land
- Out of character with future Newcastle West precinct
- Noise
- Overshadowing
- Privacy
- Loss of property value
- Economic impact to adjoining business

In relation to the concerns raised about impacts on land values and financial stability of the adjoining 'Newcastle Central' building, it is noted that the proposal will not adversely impact on the amenity of the adjoining premises or the neighbourhood generally and, accordingly, is not likely to detract from current market values. As discussed in the report, the proposal will not unreasonably impact upon the adjoining building in relation to views and overshadowing. In relation to building separation, it is noted that the 'Newcastle Central' building is only approximately three metres from the boundary, as it predates the SEPP 65 guidelines. This has resulted in the proposal needing to provide a larger setback on their site, which is less than equitable, as well as providing adjustable full-height screens to all balconies on the new building.

### **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 seniors housing accommodation in a range of sizes and levels of care. 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**

- A. THAT the Hunter and Central Coast JRPP, as the consent authority, approve development consent to DA2016/00654 (2016HCC044) for the demolition of existing buildings, construction of a 14 storey senior housing development comprising a 60 bed aged care facility, 74 seniors living units, two levels of parking (91 cars), ground floor retail space and associated site works at 500 King Street Newcastle West, pursuant to Section 80 of the EP&A Act subject to the conditions in Appendix A; and
- B. THAT those persons who made submissions be advised of the determination.