

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

<b>Panel Reference</b>	2016HCC048
<b>DA Number</b>	2016/00746
<b>Local Government Area</b>	Newcastle City Council
<b>Proposed Development</b>	Demolition of building, construction of eight storey hotel with ground floor retail space, two levels of parking (106 bays), associated site works and signage.
<b>Street Address</b>	514 King Street Newcastle West (also known as 500 King Street Newcastle West)
<b>Applicant/Owner</b>	<b>Applicant</b> - Tactical Project Management Pty Ltd  <b>Owners</b> - Pro-invest HIE NTL Trust/Tim Sherlock
<b>Date of DA lodgement</b>	8 July 2016
<b>Number of Submissions</b>	One
<b>Recommendation</b>	Approval
<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 No. 55 - Remediation of Land</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 consideration</b>	<p><b>Appendix A</b> - Conditions of consent</p> <p><b>Appendix B</b> - Documents submitted with the application</p> <p><b>Appendix C</b> – External Referral Comments</p> <p><b>Appendix D</b> - Urban Design Consultative Group minutes</p>
<b>Report by</b>	Newcastle City Council
<b>Report date</b>	13 December 2016

<b>Summary of s79C matters</b>  Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	<b>Yes / No</b>
<b>Legislative clauses requiring consent authority satisfaction</b>  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?  <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	<b>Yes / No / Not Applicable</b>  <b>(Has been addressed in the body of the assessment report)</b>
<b>Clause 4.6 Exceptions to development standards</b>  If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes / No / Not Applicable</b>
<b>Special Infrastructure Contributions</b>  Does the DA require Special Infrastructure Contributions conditions (S94EF)?  <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>Yes / No / Not Applicable</b>
<b>Conditions</b>  Have draft conditions been provided to the applicant for comment?  <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	<b>Yes / No</b>

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

Development application No. 2016/00746 has been lodged with Council seeking consent for:

- Demolition of existing structures
- Construction of an eight storey 'Holiday Inn Express' hotel, comprising:
  - 170 hotel guest rooms
  - A ground floor retail tenancy
  - Two levels of carparking
  - Signage
  - Associated landscaping and public domain works

The proposal was placed on public exhibition for a period of 14 days from 25 July to 8 August 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 (1) submission was received during the notification period.

The key issues raised in the assessment relate to:

- The bulk, scale and design of the building, including compliance with the relevant planning controls; and
- 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 hotel 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 \$ 29,230,410 including GST.

## 1. INTRODUCTION

This report provides a detailed overview of the development proposal for the demolition of the existing structures, construction of an eight storey hotel with ground floor retail space, two levels of parking (106 bays), associated site works and signage at 514 King Street Newcastle West (also known as 500 King Street).

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 \$ 29,230,410 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 2,175m<sup>2</sup> and is generally flat and rectangular in shape. The site is known as 514 King Street Newcastle West and comprises Lot 2 DP542059 and Lot 9 DP 446798. The site has a frontage to King Street of 56 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 most recently used as a car sales yard and is currently used for the temporary storage of cars. Existing structures on the site include a single storey vehicle show room and a hardstand car parking area. The site is generally devoid of vegetation.

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, a range of buildings exist, including the three storey Rundle Tailoring building, the double storey 'West End Accommodation' building and the 'Pinnacle' Building which is a 13 storey short and long-term rental accommodation facility. An unidentified commercial building and a row of three double storey terraces also exist to the north. The site to the east is the subject of a recently approved development application for a 14 storey seniors housing development (Development Application No. 2016/00654 and 2016HCC 044).

The heritage-listed Army Drill Hall, being a one to two storey brick and weatherboard building is located further to the east. To the west, a narrow lot separates the site from Stewart Ave which is used for carparking for the 'West End Accommodation' building that faces Hunter Street.



Site - 500-514 King Newcastle West

## 4. PROPOSAL

The application involves:

- Demolition of existing structures
- An eight storey 'Holiday Inn Express' hotel, comprising:
  - 170 hotel guest rooms over five storeys.
  - A ground floor which includes a lobby, reception area, 'greatroom' and bar, communal dining, buffet, lounge, study area, meeting room, gym and 'back of house' areas.
  - A ground floor retail tenancy, being 275m<sup>2</sup> in size, likely to be a cafe or restaurant use.
  - Two levels of carparking, comprising 104 car spaces, 6 motorbike spaces and 12 bicycle spaces.
  - Building identification signage
  - Associated landscaping and public domain works

The hotel is anticipated to operate 24 hours per day, 7 days per week, and the retail tenancy is expected to operate between 6am to 11pm.

## 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 \$ 29,230,410 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 a higher density commercial development in an area that will have easy access to public transport in the future. The site does not restrict future development opportunities in the area. The design of the site has also taken into consideration public access corridors 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 a tourist facility with parking for 50 or more 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 15 July 2016. A response was received from the RMS on 25 November 2016 (refer to **Appendix C** of this report). The RMS has raised no objection to the proposed development, in principle.

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

*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 application included a Site Contamination Assessment, which has been evaluated by Council's Environmental Protection Officer. It was considered that this assessment demonstrated that the land is suitable for the proposed use. Accordingly, the proposal is satisfactory having regard to this policy

*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 includes three building identification signs to be positioned on the Little King Street and Stewart Avenue building facades. The applicant has confirmed that the proposal does not include any 'advertisements' as defined under the SEPP.

The proposal is considered to be acceptable under the SEPP.

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

*Clause 4.3 Height of Buildings*

The Height of Buildings Map has a maximum height limit for the site of 90m. The proposed development has a maximum height of approximately 30m.

*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 2.7:1 which complies with this requirement.

*Clause 5.5 Development within the Coastal Zone*

The proposed development will not impact on the 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 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 structures associated with the now vacant former motor dealership building and construct in its place an 8 storey hotel 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 structures have little cultural heritage merit and do 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 late 1960's era building.

In respect of the proposed development, the proposed new building is of a form, scale and massing that is generally compatible with the established character of the

immediate locality, and from an urban design perspective it is considered that it will fit comfortably within this precinct of the Stewart Avenue and Birdwood Park streetscape. The proposed palette of materials, colours and textures are acceptable, being 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 and the construction of the new hotel provided that the works are undertaken strictly in accordance with the details as set out in the application plans and SoEE.

#### *Clause 6.1 Acid Sulfate Soils*

The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). The development proposes works two metres 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.

#### *Clause 6.5 Public safety - licensed premises*

The proposal includes a lobby area with the potential for a licensed bar area. In this regard, the applicant advises:

*The proposal includes a licensed premises, associated with the sale of alcohol in the proposed hotel bar area. Accordingly, public safety is addressed in the CPTED - Crime Risk Assessment by TPG Town Planning & Urban Design. In summary, it noted that public safety will be ensured through rigorous management practices including the responsible service of alcohol. Further, introducing a vibrant hotel use, supported by retail and commercial opportunities that contribute to activity 24 hour, 7 days a week, will assist in crowding out opportunities for antisocial behaviour.*

The proposal has been considered by the Newcastle Licensed Premises Reference Group, which includes the NSW Police, and no objections have been raised in relation to the proposal.

#### *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 56m.

#### *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 comments made by the panel are discussed in the assessment.

The development meets the design excellence criteria of the LEP and is of a high standard of architectural quality. The development will improve the quality and amenity of the public domain and does not 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, 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 the hotel lobby, with a separate commercial premises tenancy. 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 7.9 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. This clause seeks to reduce FSR for non-commercial development. As the proposal is wholly commercial, this clause has no effect.

**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.

### *3.09 Tourist and Visitor Accommodation*

This section of the DCP does not contain specific controls. However, it aims to encourage tourist and visitor accommodation that has minimal effect on surrounding development and the environment. The proposal is acceptable under this section of the DCP.

### *3.10 - Commercial Uses*

This section requires that the ground level frontage be activated through the provision of retail or business premises and 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 (copy attached to Northrop's flood assessment).*

*The calculated local catchment 1% Annual Exceedance Probability (AEP) flood level on the site is 2.9m AHD. The minimum required floor level for occupiable rooms set by Council is 3.4m AHD and this has been achieved in the ground floor retail and hotel reception 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.*

Based on site constraints, the design of the building and the likely flood affectation, it is considered that the proposal is acceptable in relation to this issue.

### *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 26 May 2016.

### *4.04 - Safety and Security*

Given the nature of the proposal, the applicant has submitted a detailed CPTED report prepared by tpg Town Planning and Urban Design. This report addresses the potential safety and security issues of the development and no concerns are raised in this regard.

### *4.05 Social Impact*

In relation to social impact, the applicant advises:

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

- *the provision of much-needed tourist accommodation in a well-serviced and central CBD location;*
- *the retail component will help to activate Little King Street and contribute to the amenity and character of the streetscape;*
- *additional activity generated by the proposal will provide more opportunities for passive surveillance of the adjoining Birdwood Park;*
- *the creation of up to 750 part-time jobs (or 100 full-time equivalent jobs) during the construction phase and around 35 jobs during the operational phase (as outlined within the DA Elemental Cost Estimate – Capital Investment Value prepared by Rider Levett Bucknall - see related attachment);*
- *flow-on economic impacts to the local economy, both through the purchase of construction goods and services, and through purchases by guests and staff throughout the operational phase i.e. up to 300 tourists can be accommodated within the hotel.*

*The potential for crime risks associated with the development has been appropriately addressed within the CPTED -Crime Risk Assessment (see related attachment). Due to the temporary nature of tourism accommodation, the development is not likely to result in a detrimental or unacceptable increase in demand for publicly-funded community services or facilities within the area, such as medical or welfare services.*

*Overall, the proposal is considered to have a net positive social impact. Due to this, and the proposal's consistency with Council's vision for development in the area, the preparation of a formal Social Impact Statement is not considered necessary.*

In relation to access, the development proposes a number of features to accommodate people with disabilities or other special needs, including the provision of ten accessible hotel rooms. An Accessibility and Disability Discrimination Act report has been submitted with the proposal. Subject to the detailed assessment that will occur during the Construction Certificate process, the proposal is considered to be acceptable in relation to social impacts.

#### **5.01 Soil Management**

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

#### **5.02 - Land Contamination**

Reference is made to the previous comments made 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 part of the subject site (Lot 9 DP 446798) plus a 50m buffer- see Appendix 3 of this SEE. 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.

#### *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 proposed materials palette is illustrated within the Architectural Plans by Reid Campbell ('External Finishes' plan). The proposed materials, colours and detail have been designed to complement the character of the surrounding area, and have been refined in response to the Urban Design Consultative Group's specific advice.*
- *The DCP requires that new developments that intend to accommodate vehicles should minimise associated visual impacts. 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. Carparking levels are to be treated with attractive finishes to soften their visual impact. No sandstone kerbing will be disturbed.*
- *This control requires new developments in heritage conservation areas to be sympathetic to the original character and context of the locality. The proposed development satisfies the key development controls for the area (e.g. maximum height and FSR controls under the NLEP).*

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 10.5m, as indicated in the image below (Little King Street frontage).</i></p> <p><i>Further, the front setback above street wall height is less than 6m, with an approximate building (tower) setback of 3.35m 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 RSL LifeCare seniors housing building directly to the east), and the best outcome must be obtained, rather than insisting on DCP compliance. Further, the UDCG noted the following with regard to the current proposal:</i></p> <p><i>The upper accommodation levels of the hotel to be set back 3.5m from the front boundary with an approximately 10.5m high podium below. This would respond to the podium as proposed for the adjoining RSL development. Although lower than the latter, it would be acceptable in principle, provided that the designs for the two podiums are refined to include articulation / stepping etc to ensure that they are sensitively related in detail where they interface (p5).</i></p> <p><i>The architectural treatment of the eastern portion of the podium has been designed to respond to this aspect in altering the built form to provide for a transitioning articulated 'end of podium' addition. Specifically, the eastern 3m section of podium has been recessed, lowered and a different finishing material applied providing a physical space from the eastern boundary. The change in finishing materials has created a softer transition to the boundary reducing any abrupt finish to the building and to any future development on the neighbouring site. It is additionally noted that the lower podium for the proposed development responds to the scale and height of the overall built form.</i></p> <p><u>Council officer's comment</u></p> <p>The DCP contains a specific street wall height for the</p>

	<p>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 10.5m and a front setback above this height of 3.3m.</p> <p>The original submitted plans for the development application was considered by the UDCG, who continued to raise concern in relation to the podium, stating:</p> <p><i>The podium to the south along King Street adjacent to the RSL development as now proposed reads only as approximately 8.5 metres in height, which is unacceptably low and would not satisfactorily complement that of the RSL building. It is essential for this to be resolved, for example by a framing element at the third floor (RL 13900) –as is the case on the north-western façade (see cross-section drawing DA-012) for this elevation to be acceptable, but not necessarily with a similar screen. Openings in the façade to the car park should also provide some visual screening as viewed from public spaces.</i></p> <p>The applicant subsequently amended the plans to continue the framing element across the Little King Street frontage to RL13900 as recommended by the UDCG.</p> <p>While this is a departure from the DCP, Council officers have afforded significant weight to the UDCG comments, which are supportive of this variation.</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. However for commercial buildings, the setbacks above the street wall are to be setback 6m. A small element of the building on the northern boundary is setback 2.7m, however no openings or windows are proposed in this regard. The UDCG raised no concern in relation to this non-compliance. It is considered that this small non-compliance is acceptable in this regard.</p>
A3 - Building Separation	<p>The subject site will not accommodate more than one building, and accordingly the provisions of this clause do not apply.</p>
A4 - Building Depth and Bulk	<p>Above street wall height, the DCP specifies a maximum Gross Floor Area of 1200m<sup>2</sup> per floor, and a maximum building depth of 25m. Buildings above street wall height are to have a maximum building length of 50m. The proposal complies with these requirements.</p>

A5 - Building Exteriors	<p>Concern was originally raised by the UDCG in relation to the materials and finishes selected for the proposal. The UDCG recommended additional 'warmth' in the colour and finish of the horizontal panels on the southern façade, noting <i>'It would be preferable for the colour and finish of the carpark levels on the southern facade to be more consistent with the 'rust' colour of the screen on the western façade, rather than the dull grey indicated.'</i></p> <p>The applicant addressed this concern through the continuation of the rust coloured fins across the southern Little King Street frontage.</p>
A6 - Heritage Buildings	<p>As discussed in this assessment, the proposal is considered to be acceptable in relation to heritage matters.</p>
A7 - Awnings	<p>The application provides awnings as required by the DCP. The UDCG raised no concerns in relation to the proposed awning design.</p>
A8- Design of Parking Structures	<p>Concern was raised by the UDCG in relation to the proposed opening to the upper level carpark and the visual impact of this area. The applicant has addressed this concern through the continuation of the rust coloured fins across the Little King Street frontage.</p> <p>Following the amendments made by the applicant, it is considered that the UDCG comments have been addressed, with the exception of the potential light spill concerns (from carpark lighting turning on and off). It is noted that the rust coloured fins would assist in the visual appearance of the carpark openings, however would not mitigate the lighting concerns. In this regard a condition of consent requiring a light filtering screen is proposed, requiring the applicant to further resolve the covering of the carpark podium to address visual impacts to the proposed adjoining aged care development.</p>
B1 - Access Network	<p>The conditions of consent will ensure improvements to the street pedestrian environment. The proposal is considered to be acceptable in this regard.</p>
B2 - Views and Vistas	<p>The subject site will not impact on any identified views or vistas. The proposal is considered to be acceptable having regard to this section of the DCP.</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 hotel lobby and ground floor retail component, which comprises approximately 55% of the frontage. While this is strictly non-compliant, it is considered that the proposal meets the intent of the DCP in providing an active frontage.</p> <p>The ground level of the building complies with the</p>

	<p>minimum 4m floor to ceiling height.</p> <p>The hotel lobby is 20% of the street frontage, which complies with the DCP requirement.</p> <p>It is noted that due to flooding constraints, the ground level is not able to be constructed at the same level as the footpath, as preferred by the DCP.</p>
B4 - Addressing the street	The proposal is acceptable in terms of addressing the street with the central entrance providing equitable access to the building.
B5 - Public Art	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. The proposal is below this height and this clause does not apply.
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>Shadow diagrams have been prepared for the proposal by Reid Campbell - see the Architectural Plans.</i></p> <p><i>Importantly, these diagrams show the overshadowing impacts of the building on Birdwood Park to the south, during the 'worst-case' overshadowing scenario (21st June - the winter solstice - the day of the year with the least daylight hours). As indicated in Figure 13, while shadows over the Park will be increased from the current scenario, these shadows will traverse the Park fairly rapidly due to the relatively slender form of the proposed tower. The great majority of the Park will remain unaffected by shadows from the proposed development for in excess of 3 hours at lunchtime during the winter solstice, in compliance with the DCP requirements.</i></p> <p><i>It is important to note that the proposed development will create significantly less overshadowing than what would be generated by a building built to the maximum allowable bulk and scale under the NLEP and DCP controls. As shown in Figure 13, the proposed building has a height significantly less than the 90m permitted, resulting in substantially less overshadowing of the Park.</i></p> <p><i>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>

	The proposal is acceptable in regards to sun access.
Key Precincts	<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.</p> <p>A specific street wall height of 22 metres is identified for the development site. The DCP also encourages large scale new developments to be articulated so that large expanses of building form are broken down into smaller elements to reduce building bulk.</p> <p>The form of the proposed building and solar access to Birdwood Park has been discussed in detail in this assessment and is acceptable.</p> <p>A pedestrian link is identified from Little King Street to Hunter Street on the eastern side of the 'Drill Hall'. This link is proposed by the development of the Seniors Housing on the adjacent site and is not specifically part of the subject application.</p>

#### *7.01 Building Design Criteria*

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.

#### *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.

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.

#### *7.03 Traffic, Parking and Access*

In relation to parking, the site is located in the city centre and all developments (excluding residential) have a carparking rate of one space per 60m<sup>2</sup> GFA.

The hotel has a GFA of 5577m<sup>2</sup> and the separate commercial tenancy is 273.3m<sup>2</sup> in size (total 5850.3m<sup>2</sup>). Accordingly 97.5 car spaces are required. The proposal complies with this requirement through the provision of 104 spaces.

In relation to motorbike and bicycle parking, one space is required for every 20 car spaces. This results in a requirement for five spaces for each mode. The proposal complies with this requirement.

#### *7.05 Energy Efficiency*

The proposal includes an ESD report, which details recommendations for energy measures to be incorporated in the design. The proposal is acceptable having regard to the DCP controls.

### *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 2,175m<sup>2</sup> with a 15kL rainwater tank for reuse on the ground floor level and a 90m<sup>3</sup> onsite detention tank proposed to control site discharge. The proposed stormwater management system satisfies Council's DCP requirements.*

The proposal is acceptable in relation to stormwater management.

### *7.08 Waste Management*

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

*Hotel waste and recycling collection services will be provided by a commercial waste contractor (TBA). Utilising a commercial waste contractor affords hotel management greater flexibility regarding collection schedules and the appropriate final collection frequencies will be determined in consultation with the waste contractor once appointed – recommended collection frequencies have been detailed in Table 2 above based on the estimated waste profile however once operational, collection schedules may need to be adjusted accordingly depending on actual waste generation.*

*The waste contractor will be engaged to retrieve the bins from the waste storage room and load them from the loading dock which is accessible via King Street (see Figure 2 in appendix for location). Once emptied, the waste contractor will return the bins to the waste rooms for use.*

*Utilising a commercial contractor enables greater segregation of recyclables into their unique streams – therefore a separate truck will be used to collect the different waste and recycling streams. All waste and recycling streams will be collected by a rear-lift truck.*

*Figure 2 in the appendix shows the truck specifications for a “Medium Rigid Vehicle” (MRV) typically used by waste contractors. The loading zone provides adequate accessibility for a MRV to reverse into the loading zone, load the bins and exit in a forwards direction.*

The proposal is considered to be acceptable in relation to waste management.

### *7.09 Outdoor Advertising and Signage*

The proposal includes business identification signage on the street frontage for the building. The DCP specifies that in commercial zones, the total advertising area of all signage directed to the street frontage, other than under awning or awning fascia signs does not exceed 0.6m<sup>2</sup> per lineal metre of that street frontage. An advertising panel is also restricted to having a maximum advertising area of 18m<sup>2</sup> or 25% of the wall area to which it is attached, whichever is the lesser. The proposal is consistent with the DCP requirements.

### *7.10 - Street Awnings & Balconies*

The DCP requires the provision of an awning on King Street which has been included as part of the development. The relevant conditions requiring approval for the awning in the road reserve have been included on the consent.

## *8.00 - Public Participation*

The application was notified for a period of 14 days from 25 July to 8 August 2016 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)(ii) 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 Strategy

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 growing tourism in the area and expanding the regional economy, supporting more jobs close to where people live.

#### 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 satisfactory having regard to this policy.

#### **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, the impacts of the proposal are discussed below.

**Urban Design**

Due to the scale of the proposal, on a prominent site in the city centre, the proposal was referred to the Urban Design Consultative Group (UDCG). A full copy of the minutes are attached at APPENDIX D, however the key comments received are discussed below (note comments in italics are from the pre-lodgement UDCG minutes).

UDCG comments:	Assessment comments:
<p><b><u>Podium Design</u></b></p> <p>The upper accommodation levels of the hotel to be set back 3.5m from the front boundary with an approximately 10.5m high podium below. This would respond to the podium as proposed in the adjoining RSL development. Although lower than the latter, it would be acceptable in principle, provided that the designs for the two podia are refined to include articulation/stepping etc to ensure that they are sensitively related in detail where they interface.</p> <p>The podium to the south along King Street adjacent to the RSL development reads as approximately 8.5 metres in height, which is unacceptably low and would not satisfactorily complement that of the RSL building. It is essential for this to be resolved, for example by a framing element at the third floor (RL 13900) – as is the case on the north-western facade (see cross-section drawing DA-012) for this elevation to be acceptable, but not necessarily with a similar screen. Openings in the facade to the car park should also provide some visual screening as viewed from public spaces.</p>	<p>Following the meeting, the applicant provided amended plans and advised:</p> <p><i>Our design iteration (attached) now includes screening to these openings and beyond, carrying the same fin treatment as currently shown on the Western façade (rust coloured blades). To maintain the ventilation requirements we intend to make these blades perforated on both elevations. We believe this will provide consistency of treatment, colour and rhythm to the podium, complementing the existing accentuated rust coloured elements and providing a strong sense of visual interest at the human scale. The extent in terms of number of blades and level of perforation to these blades will be in accordance with the natural ventilation requirements of the car park.</i></p>
	<p>Following the amendments made by the applicant the UDCG comments have been addressed.</p>
<p><b><u>Cover to upper-level of carpark</u></b></p> <p>As submitted, the upper level of the carpark which extends into the courtyard beyond the footprint of the tower to the north is not covered. This</p>	<p>Following the meeting, the applicant provided amended plans and advised:</p> <p><i>We note that the panel commended the idea of natural ventilation to the car park as an ESD initiative and also</i></p>

<p>is unacceptable in view of its negative visual and acoustic impacts, particularly in relation to neighbouring and nearby present and future residents. Whilst the Panel continues to urge that the carpark should be fully roofed and greened as a responsible and what would be a very modest gesture in relation to environmental sustainability, at the very least it must be covered to ensure that it is not unattractive to look down upon, and to ensure that vehicle movements do not generate any unacceptable environmental impacts.</p>	<p><i>acknowledged the operational and guest privacy constraints of having a trafficable roof on top of the car park;</i>  <i>- We note that the Panel's primary concern was overlooking onto the car park by surrounding residents and the potential visual impact of vehicle headlights at night time;</i>  <i>- Whilst we believe that the traffic flow during non-daylight hours will be minimal, we respect the panels comments and have proposed a lightweight structure and screening feature to the car park to provide the necessary barrier to ensure that the visual amenity of the surrounding neighbours is not impaired. This has been considered also in relation to vehicular directional flow around the car park areas;</i>  <i>- We are proposing a screening structure that will incorporate visually interesting profiled metal fins over a tensile fabric. The precise materiality of this structure will be determined to maintain ventilation requirements, however will achieve the purpose of minimising the effects of obtrusive intermittent lighting. Imagery has been provided to provide the design intent of this structure which also aims to be an aesthetically pleasing element when viewed from the guest rooms or surrounding developments.</i></p> <p>Council officers note that the carpark is now proposed to be covered. However concern is raised in relation to the selected material. A condition has been placed on the consent to address this issue.</p>
<p><u>Landscaping</u></p> <p>The landscape design in the plans by Terras Landscape Architects is extremely limited in its area of proposed planting, but is generally acceptable in relation to the street-level planting and paving. The public domain paving as indicated appears appropriate, although the material selection is yet to be confirmed. This, along with other components of the streetscape will need to be finalised in consultation with Council and the</p>	<p>The comments of the Panel are noted. It is agreed that the landscaping could be improved, but is satisfactory based on the nature of the proposal.</p> <p>Street trees are recommended in the conditions of consent.</p>

<p>designers of the adjoining new seniors housing development to ensure consistency in the streetscape.</p> <p>As to other areas it is accepted that podium planting, although it would enhance the character of the building would require maintenance. The reference to courtyard planting applied to both the seniors housing and to the hotel as discussed above under 'Sustainability'.</p>	
<p><u>Aesthetics</u></p> <p>Generally acceptable with only the following issues discussed at the meeting to be addressed:</p> <ul style="list-style-type: none"> <li>• There should be more 'warmth' in the colour and finish of the horizontal panels on the southern façade</li> <li>• It would be preferable for the colour and finish of the carpark levels on the southern facade to be more consistent with the 'rust' colour of the screen on the western façade, rather than the dull grey indicated.</li> <li>• Signage is now acceptable subject to it meeting Council requirements.</li> <li>• Light spill from the car park to the exterior of the building as viewed from the street, the park and the adjacent proposed seniors living development is a concern – both in respect to car headlights and ceiling lighting. This should be should be screened to avoid direct viewing into the car park levels and to reduce the visual presentation of the carpark to surrounding spaces at night.</li> </ul>	<p>Following the meeting, the applicant provided amended plans and advised:</p> <ul style="list-style-type: none"> <li>- <i>One of the panel members suggested he would prefer to see a "masonry" finish to the King Street podium car park elevation. Whilst we considered this idea (and we note it was a comment that did not appear to be collectively endorsed by the Panel), we felt that the current design already incorporated a number of textural and colour elements within the podium and the addition of another finish to this area would see the podium become too "busy" and conflicted;</i></li> <li>- <i>Instead, we feel that the incorporation of the rust coloured fins to the car park opening as noted in item 1 above will provide a considered contrast and tie the podium together much better than altering the current proposed finish. We also feel that the continuation of the rust coloured treatment performs the requirement of blending into, and consideration of the historical urban context of the Newcastle area and surrounding development.</i></li> </ul> <p>Following the amendments made by the applicant, it is considered that the UDCG comments have been addressed, with the exception of the potential light spill concerns. It is noted that the rust coloured fins would assist in the visual appearance of the carpark openings, however would not mitigate the lighting. In this regard a condition of consent, requiring a light</p>

filtering screen is recommended.

### Character, bulk and scale

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

### 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 tourist presence 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 60 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.'*

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

*'Servicing of the commercial premises on the site is likely to be of the order of 3 to 4 vehicles per day with mainly food, beverage and laundry deliveries as well as waste collection being the main servicing requirements. To accommodate service vehicles a loading bay is provided at ground level immediately inside the vehicular access to the site. The loading bay as demonstrated on the plans (Attachment A) has been designed to accommodate the turning movements for a medium rigid vehicle (8.8 metre length) ensuring forward entry and exit from the site. This loading bay will accommodate the majority of servicing associated with the hotel. Any deliveries carried out using a heavy rigid vehicle (HRV) will be accommodated in an on-street loading zone to be provided on Little King Street'*

*as part of the public domain plan / works to be undertaken in Little King Street currently being negotiated with Newcastle City Council.*

*Waste collection from the site is proposed to be via private contractor using a MRV collection vehicle specifically designed for use in basement areas, utilising the provided loading bay. This is a common waste collection solution in the Newcastle CBD area.*

*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*

In relation to parking, the site is located in the city centre and all developments (excluding residential) have a carparking rate of one space per 60m<sup>2</sup> GFA.

The hotel has a GFA of 5577m<sup>2</sup> and the separate commercial tenancy is 273.3m<sup>2</sup> in size (total 5850.3m<sup>2</sup>). Accordingly 97.5 car spaces are required. The proposal complies with this requirement through the provision of 104 spaces.

In relation to motorbike and bicycle parking, one space is required for every 20 car spaces. This results in a requirement for five spaces for each mode. The proposal complies with this requirement.

### *Bicycle Parking and End User Facility*

The development has provided bicycle racks for staff and patrons who may intend to use alternative transport, as well as shower facilities 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*

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

### Views

In relation to views, the applicant advises:

*Almost all hotel guest rooms - particularly on the upper levels - will benefit from views to the surrounding city centre and Birdwood Park (to the south), and / or glimpse views of the Harbour and foreshore (to the north-east).*

*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 lower-scale commercial uses with a primary outlook to the adjacent street (with the exception of the 'Pinnacle' building to the north-east). For this reason, the proposed building is not likely to significantly affect views for the majority of surrounding development, including the Pinnacle (due to the separation from the site).*

*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 and the proposal is acceptable in relation to view impacts.

### Privacy

In relation to privacy, the applicant advises:

*The proposed hotel rooms will be at a greater height than all existing surrounding development, i.e. adjacent buildings to the north are limited to 3-storeys in height, while the hotel rooms will be positioned on the 4th floor and higher. Accordingly, hotel guest's privacy will not be impacted by overlooking or through views into adjacent windows. The 13-storey 'Pinnacle' apartment building to the north-east will be separated from the nearest hotel room by approximately 40m, and the orientation relationship between the buildings ensures there are unlikely to be any privacy issues.*

*Surrounding existing development comprises commercial buildings with no associated private outdoor areas, or public open space (Birdwood Park). Accordingly, the proposed development is not likely to have any impacts on the privacy of surrounding development, including from overlooking.*

*The proposed RSL LifeCare seniors housing development directly to the east comprises a 14-storey seniors housing development. To avoid privacy impacts into this site, no hotel room windows are proposed along the building's eastern façade, closest to the boundary.*

*Common hallway windows along this eastern façade are anticipated to be oriented to avoid directly looking into adjacent RSL LifeCare windows, and will consist of obscure glass to minimise direct overlooking of private open space areas. Regardless, these windows will be separated from the adjoining building by over 13m. This setback exceeds the minimum 12m recommended within the Apartment Design Guide for the maintenance of visual privacy between developments.*

*The 5 proposed hotel rooms on each floor with windows facing east (in the northern portion of the site) will be separated from the site's eastern boundary by approximately 36m, ensuring there will be no privacy impacts on the adjoining RSL development. Proposed podium levels of the building (Ground Floor to Level 2), which will directly adjoin the RSL development to the east, will not contain any windows or other openings, thereby avoiding impacts on privacy.*

It is noted that the potential privacy impacts to adjoining buildings have been managed through the proposed orientation and setbacks of windows of the hotel rooms. The proposal is satisfactory in relation to privacy.

### Overshadowing

The overshadowing of the proposal to Birdwood Park has been discussed in this assessment in accordance with the DCP. The proposal is acceptable in terms of any overshadowing impacts.

### Acoustic Impacts

The potential acoustic impacts of the development on the adjoining properties have been considered by Council's Environmental Officer. In this regard, concern was initially raised in relation to potential impacts to the proposed senior's housing development on the adjoining site from the mechanical plant. The applicant subsequently provided an additional acoustic assessment, and the proposal is now considered acceptable subject to the recommendations in the Acoustic Report.

#### **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 on the western edge of the city and in 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. The submission raised concern in relation to the use of an easement for the fire exit i.e. relying on adjoining land. However, a review of the plans has revealed that the exit while adjacent to the right of way has a pedestrian path to Little King Street wholly on the subject site.

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

The site is located in a key position and the development of the site would be a significant improvement to the existing streetscape and also aligns with the desired future character of the area.

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 additional tourist and visitor accommodation and will facilitate associated employment opportunities 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 DA2016/00746 (2016HCC048) for the demolition of the existing structures, construction of an eight storey hotel with ground floor retail space, two levels of parking (106 bays), associated site works and signage at 514 King Street Newcastle West (also known as 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.