

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

Panel Reference	2018HCC039
DA Number	DA-2018/01107
Local Government Area	CITY OF NEWCASTLE
Approved Development	Erection of 12 storey commercial building with ground floor retail and basement car park
Street Address	Lot 100 DP1245750 854 Hunter Street, Newcastle (also known as 6 Stewart Avenue)
Applicant/ Owner	Doma Interchange Development Pty Ltd / Hunter and Central Coast Development Corporation
Number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the Act)	The proposal is listed within Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, being general development over \$30 million. The application submitted to Council nominates the capital investment value of the project as approximately \$55 million.
List of All Relevant 4.15(1)(a) Matters	Environmental planning instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Coastal Management) 2018 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 - Remediation of Land • Newcastle Local Environmental Plan 2012 Development Control Plan: s4.15(1)(a)(iii) <ul style="list-style-type: none"> • Newcastle Development Control Plan 2012
List all documents submitted with this report for the panel's consideration	Appendix A: Recommended conditions of consent. Appendix B: List of the documents submitted with the application for assessment. Appendix C: Architectural Drawings and material Schedule, by Bates Smart Appendix D: Landscape Plans Commercial Building, by Bates Smart Appendix E: Clause 4.6 – Building Separation prepared by KDC Appendix F: Selected Site Analysis Documents, by Bates Smart Appendix G: Site Analysis (Impact on adjacent site to south) by Bates Smart
Report by	TCG Planning on Behalf of City of Newcastle Council
Report date	28 February 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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 summarised, in the Executive Summary of the assessment report?	Yes / No
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e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	Yes / No / Not Applicable
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Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?	Yes / No
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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

Background

This Application (DA-2018/01107), forms Stage 3 of a Concept Application (DA-2018/01109). The application is specifically for a freestanding Commercial and Retail building at Lot 100 DP 1245750, (known as 6 Stewart Avenue). The site is located within the wider property known as 'The Store' and is also the site of the new Newcastle Bus Interchange (NBI). The buildings that were on the site, which includes a heritage listed building, were approved independently for demolition and remediation, to make way for the construction of the NBI under Part 5 of the EP&A Act 1979 by Transport for NSW. The Part 5 Review of Environmental Factors (REF), determined by Transport for NSW in November 2017, specifically permits demolition of existing structures, remediation of the site to an RL of -0.1, ground plane landscaping of the public domain areas, and the construction of a ground level NBI.

The site is owned by the Hunter & Central Coast Development Corporation (HCCDC) and has recently been consolidated into one allotment, that being Lot 100 DP 1245750. In August 2018, the Stage 1 DA of the Concept Application was lodged with Council for a multi storey carpark located above the NBI (DA2018/00879). The Concept Application (Stage 2) has been lodged concurrently (DA 2018/01109) with this 'Stage 3' Commercial building application. A separate report details the assessment of that application. Stage 4 relating to two (2) shop top housing towers will follow at a later date.

Proposed Development

The proposed development comprises a freestanding commercial/retail building over 12 storeys, with the following key features:

- One basement level carpark consisting of 40 spaces including 2 accessible spaces; 87 bicycle storage spaces; end of trip facilities; plant rooms and store rooms. The basement parking will be for building occupants only;
- Ground floor:
 - retail tenancies of 318m² fronting an outdoor forecourt on the northern side of the building which will include outdoor seating overlooking the light rail future proof zone
 - office lobby and foyer
 - Waste storage rooms
 - Loading dock
 - Vehicular access from Beresford lane
- Level 1 – Commercial / office space 907m²
- Level 4 – 11 – Commercial / office space 1406m²
- Level 12 – Plant space 1042m²

Referral to Joint Regional Planning Panel

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Clause 4.5 of the *Environmental Planning and Assessment Act 1979*, as the proposal is listed within Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*, being general development over \$30 million (Estimated capital investment value being over \$50M).

Permissibility

The applicable planning instrument is *Newcastle Local Environmental Plan 2012* (NLEP 2012) under which the subject site is zoned B3 Commercial Core. The proposed uses, which is defined as defined as a type of 'commercial premises' is permitted with consent within the

B3 Commercial core zone. The proposal is nominated integrated development, specifically in regard to Section 91(3) of the *Water Management Act 2000*.

Consultation

The application was publicly exhibited in a newspaper notice on 13 October 2018 and notified to adjoining and nearby properties on 12 October 2018, with the exhibition period extending from 13 October to 13 November 2018. The development application was exhibited concurrently with the DA for the related Concept Plan (DA-2018/01109). No submissions were received from members of the public.

The application was also referred to WaterNSW, Transport for NSW, Sydney Trains and the RMS (Manager of Land Use Development),.

Key Issues

The main issues identified in the assessment are as follows:

- Built Form including street wall heights, setbacks above street wall height and building separation;
- Impacts to adjacent properties to the south;
- Carparking provision.

Recommendation

That the Joint Regional Planning Panel grant consent to DA-2018/01107, subject to the conditions contained in Appendix A.

1. Site and Locality Description

(a) Subject Site

The land applying to the overall Concept Plan and Stage 2 is known as Lot 100 DP1245750, 854 Hunter Street, Newcastle West. It is bounded by the Newcastle Interchange to the north, Stewart Avenue to the east, Hunter Street to the south, and a carpark to the west. The total approximate area is 1.203 Ha. Beresford Lane and Cooper Street bound the south east corner of the site. The street frontage to Hunter Street is approximately 109m and to Stewart Avenue of 40m. The site falls approximately 1.5m to the north from Hunter Street to the railway line. The demolition of all buildings within the site has been approved, including the heritage building the 'Co-operative Store', and open carpark structure on the north east portion of the site.

The Commercial / retail building subject to this application is located within the north eastern corner of the site (the former 'Store' car park site), primarily addressing Stewart Avenue to the east, and the Newcastle Interchange to the north. Beresford Lane is located to the south of the proposed commercial building. Refer **Figure 1** for the wider property boundary and site of the commercial building in the eastern portion of the site.

Description of Surrounding Locality

North: Great Northern Railway – new interchange and light rail interchange. Further north of the rail line is predominately residential development.

West: Further west along Hunter Street is a mix of commercial development of various scales and forms, including a mix of retail shops and offices of older style, as well as a new Kennards Self Storage building. The rear (north) of these sites is predominately car parking fronting the rail line.

South: The southern boundary of the site is Hunter Street. The opposite side of Hunter Street is dominated by the Quest Apartments building, which is listed in the State Heritage Register. A multi storey building is under construction at No. 12 Stewart Avenue (corner Hunter Street) which will contain the Council offices and other commercial tenancies. The pocket of buildings bordered by Beresford Lane, Cooper Street, Hunter Street and Stewart Avenue (ie. No. 840 to 850 Hunter Street), which does not form part of the subject site, contains two storey retail/commercial building uses of older style. No. 834 Hunter Street, which is vacant, also does not form part of the development site.

East: Stewart Avenue forms the eastern boundary of the site which is a four to six lane road. A single storey industrial style building fronts Stewart Avenue to the east, as well as a two storey retail building which addresses Hunter Street. On the eastern side of Stewart Avenue are single and two storey retail/commercial buildings and beyond that are a number of recently developed sites containing multi storey mixed use buildings.

Figure 1: Aerial photo showing the location of the subject site (*Source: Six Maps*)



2. Background

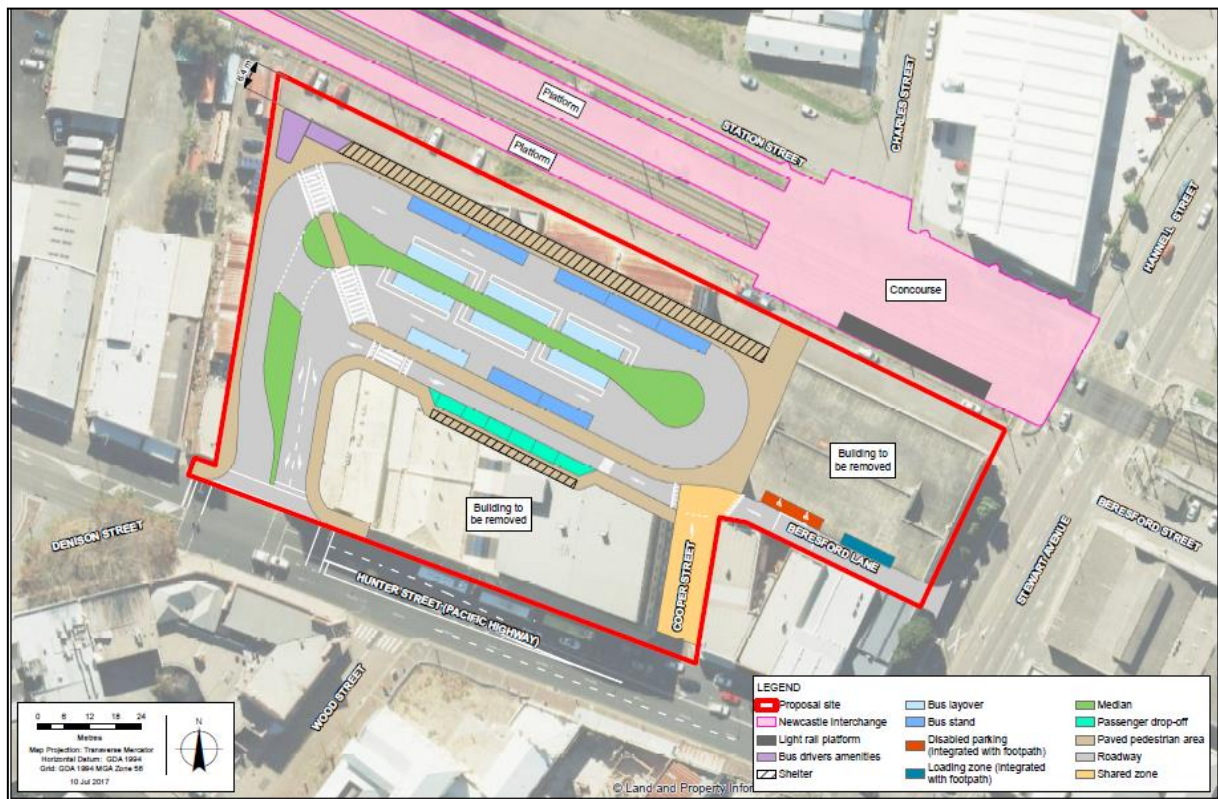
Review of Environmental Factors – Newcastle Bus Interchange

A Part 5 approval was granted under *State Environmental Planning Policy (Infrastructure) 2007* for the demolition of the buildings on the site, remediation works, and the construction of a ground level bus interchange. The Part 5 Review of Environmental Factors was approved by Transport for NSW in November 2017 and subsequent Conditions of Approval were issued by Transport for NSW.

Specifically, the proposal for the approved bus interchange included (as outlined within the REF):

- Removal of existing buildings on the site, including 'The Store' and open multi storey car park;
- At grade bus interchange including bus shelters, bike racks, driver ablutions, drop off and pick up zone, mobility parking, loading zone;
- A driver's facility on the north west corner of the site which includes toilets, kitchenette and seating
- Access and egress from Hunter Street and Cooper Street, as well as Stewart Avenue via Beresford Lane
- At grade landscaping;
- Public domain works
- Operation 24 hours per day, 7 days per week

Figure 2: Approved NBI on the site (Source Statement of Environmental Effects KDC October 2018)



Specifically, the key changes to the road network for the NBI is as follows:

- *Beresford Lane would become one-way west-bound, with provision for reduced mobility parking and a loading zone on the northern side within the available kerb length between Cooper Street and Stewart Avenue. Spaces are to be integrated into the footpath*
- *Cooper Street would become one-way north-bound, with kerbs flush with the roadway and street trees to encourage pedestrian priority*
- *passenger drop-off on Beresford Lane*
- *Cooper Street and a section of Beresford Lane would be designated as a shared pedestrian and vehicle zone*
- *pedestrian pathways around all roadways*
- *the footpath and roads along Cooper Street and Beresford Lane would be upgraded. This would involve the use of paving, street furniture and street trees to improve the link between Newcastle Interchange and Hunter Street / Stewart Avenue*
- *two-way access and exit via Hunter Street for buses and light vehicles*
- *the signalised intersection on Hunter Street would be widened to accommodate dual turn bus movements*
- *improvements to local footpaths, kerb and gutter to enhance pedestrian access to the proposal and Newcastle Interchange.*

The REF also addressed potential future development on the site, particularly for a mixed use development incorporating a bus interchange which integrates with the adjacent Newcastle Interchange. A preliminary assessment was undertaken to determine feasibility of

future development over the proposal, which was found to be possible, as well as on other areas of the site.

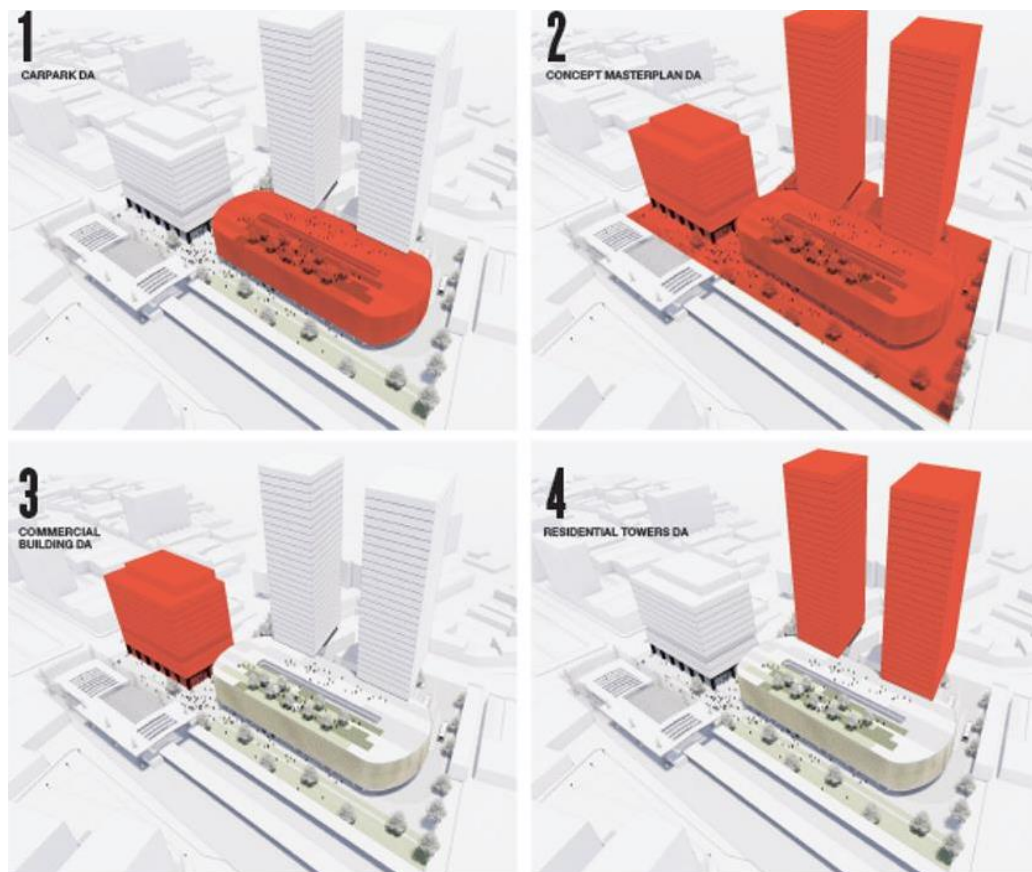
Stage 1 Carpark DA

DA-2018/00897 was approved by Council on 7 December 2018. This consent granted approval for a multi storey carpark to be located above the NBI. The five level carpark will contain 678 spaces, with access provided via a new ramp from the internal access road leading from Hunter Street.

Staged Concept Proposal DA2018/01109 (stage 2)

A staged concept development application was lodged by Doma Interchange Development Pty Ltd for the subject site which has yet to be determined by the JRPP. This application was submitted concurrently with this application for the 12 storey commercial building and is the subject of a separate assessment report. The staged concept application includes a car park over the NBI (stage 1), the subject twelve (12) storey commercial / retail building (stage 3) and a future application (stage 4) for a shop top housing development. Refer Figure 3.

Figure 3: Concept Plan Staging. (Source: Statement of Environmental Effects KDC October 2018)



Section 4.24 of the EP&A Act 1979 (Status of staged development applications and consents) indicates that *"while any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent."* Effectively, this requires future development applications for each stage of the development to remain consistent with the approved Concept Proposal. This 'Stage 3' DA therefore has been assessed concurrently with the Concept Proposal DA and is required to be consistent with that DA.

A Development Application, which pertains to the subdivision of Lot 100 DP1245750 into two allotments, was also recently lodged with Council by DOMA Group Pty Ltd. This application seeks to create Lot 300, which will be approximately 1784m² in area, with frontage to Stewart Ave and will contain the proposed commercial building. The balance of the land, to be known as Lot 301, is proposed to have an area of approximately 1.0246ha and will comprise the land which will contain the NBI, the approved multi storey carpark and the proposed residential (shop top) housing towers. This development application was still under consideration by Council at the date of preparing this JRPP report.

3. Project Description

The proposed development comprises a freestanding commercial/retail building over 12 storeys (plus plant level), with the following key features:

- One basement level carpark consisting of 40 spaces including 2 accessible spaces; 87 bicycle storage spaces; end of trip facilities; plant rooms and store rooms. The basement parking will be for building occupants only.
- Landscaping to Stewart Avenue (within public domain/road reserve) and north of building at colonnade adjacent to light rail corridor.
- Ground floor:
 - retail tenancies of 318m² fronting an outdoor forecourt on the northern side of the building which will include outdoor seating overlooking the light rail future proof zone
 - office lobby and foyer
 - Waste storage rooms
 - Loading dock
 - Vehicular access from Beresford lane;
- Level 1 – Commercial / office space 907m²
- Level 4 – 11 – Commercial / office space 1406m²
- Level 12 – Plant space 1042m²

Key Development Aspects of the Proposal:

- Total Gross Floor Area (GFA) 16,689m²
- Building Height: Top of building RL56.4 (vertical height approximately 52.3m, as provided by applicant)
- Setbacks/Building separation:
 - West: Separation to carpark:10m
 - North: Setback to boundary: 6.6m (light rail future proof zone)
 - East: Setback to Stewart Ave boundary: 0m
 - South: Setback to Beresford Lane boundary:0m

An artist's impression is provided at **Figure 4**. The proposal is detailed in the following plans and documents appended to this report:

Appendix C: Architectural Drawings and Material Schedule, by Bates Smart

Appendix D: Landscape Plans Commercial Building, by Bates Smart

Appendix E: Clause 4.6 – Building Separation prepared by KDC

Appendix F: Selected Site Analysis Documents, by Bates Smart

Appendix G: Site Analysis (Impact on adjacent site to south) by Bates Smart

Figure 4: Photomontage of proposed commercial building as viewed from Stewart Street (looking south-west) (Source: Bates Smart)



4. Consultation

The application was publicly exhibited in a newspaper notice on 13 October 2018 and notified to adjoining and nearby properties on 12 October 2018, with the exhibition period extending from 13 October to 13 November 2018. The development application was exhibited concurrently with the DA for the related Concept Plan (DA-2018/01109). No submissions were received from members of the public.

5. Referrals

Approval Authorities- Integrated Development

The staged development is identified as 'Integrated Development' pursuant to Section 4.46 of the EP&A Act 1979. The following provides a summary of the external referrals which were forwarded for the development application.

Table 1: Summary of External Referrals	
Agency	Response
Water NSW Water Act 1912, Part 5 Received: 12.12.18	Water NSW confirmed that the proposed development requires a licence under Part 5 of the Water Act 1912 (as current groundwater water sharing plans do not apply to the development footprint) and provided General Terms of Approval to be imposed on the consent for a licence under the Act. Part 5 of the Water Act applies to integrated developments under the transitional provisions (ie. previously referred to the Natural Resource Access Regulator (Former Department of Primary Industries – Office of Water) under Section 91 of the <i>Water Management Act 2000</i> .

Table 1: Summary of External Referrals	
Agency	Response
Roads and Maritime Services SEPP (Infrastructure) 2007 Clause 104 Referral under SEPP (Infrastructure) 2007 Received: 29.01.19 and 28.02.19	<p>Roads and Maritime has reviewed the information provided and raised a number of issues, which include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <i>The cumulative impacts of the proposed commercial building and the multi-storey commercial carpark on the Hunter Street/Beresford Street intersection will need to be assessed.</i> <i>Roads and Maritime raise concern regarding the submitted Transport Impact Assessment (TIA) and associated SIDRA intersection modelling for this application, undertaken by GHD dated September 2018, relies on incorrect modelling undertaken for the multi-storey carpark. These comments are expanded upon in Annexure A to the correspondence.</i> <i>Roads and Maritime consider that there is an unacceptable impact to safety and efficiency of the road network if the development is to proceed as proposed and modelled.</i> <i>Roads and Maritime will require these matters to be resolved prior to the determination of this application.</i> <p>In addition to the above, Roads and Maritime recommends that the following matters should be considered by Council in determining this development:</p> <ul style="list-style-type: none"> <i>Roads and Maritime has no proposal that requires any part of the property.</i> <i>Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.</i> <i>Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.</i> <i>Discharged stormwater from the development shall not exceed the capacity of the Hannell Street stormwater system. Council shall ensure that drainage from the site is catered for appropriately and should advise Roads and Maritime of any adjustments to the existing system that are required prior to final approval of the development.</i> <p>RMS' response to the application is primarily concerned with the operation of the signalised site entry/exit intersection at Hunter Street and, to a lesser extent, the one-way entry from Stewart Avenue into Beresford Lane, noting that these intersections are to be upgraded in connection with the construction of the NBI. RMS raised particular concern regarding the submitted Transport Impact Assessment by GHD.</p> <p>Following the receipt of responses from RMS on 29 January 2019, updated and additional traffic modelling has been submitted to RMS by GHD. In particular, the modelling of the worst case scenario for the operation of the intersections, which involves the interim use of the approved multi storey carpark for private paid parking under commercial arrangements, has been accepted. In this respect, RMS has advised GHD that, based on the submitted report and modelling, they raise no objection to the intersection upgrades proceeding to a Works Authorisation Deed.</p> <p>A further response from RMS (28 February 2019) advises that they have received an updated Traffic Impact Assessment and they raise no objection to the application.</p> <p>The approval of the multi storey carpark (DA-2018/00879) was subject to conditions that require mitigation measures to be implemented in connection with the interim use of the carpark for private paid parking under commercial</p>

Table 1: Summary of External Referrals	
Agency	Response
	<p>arrangements, to the extent necessary, to ensure that vehicle queueing lengths do not result in vehicle queues extending into Hunter Street.</p> <p>RMS specifically recommended that the following matters be considered by Council in the determination of the application:</p> <ul style="list-style-type: none"> <i>Roads and Maritime has no proposal that requires any part of the property.</i> <p>Comment: Noted</p> <ul style="list-style-type: none"> <i>Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.</i> <p>Comment: The application is accompanied by a Site Management Plan prepared by BLOC (dated 24 May 18) which details construction methodologies and sequences, staging, site access/traffic control, and operational matters. BLOC estimate that during construction there will be 40-80 workers on site, with 15-20 deliveries and 35-40 concrete deliveries per day. Construction Staging Plans are also provided which confirm the location of site compounds, hoardings, cranes, temporary ramps and temporary protection for the various stages of the project.</p> <p>In order to manage the potential construction traffic impacts it is recommended that a condition be applied requiring the submission of a Construction Traffic Management Plan which details provisions for car parking and traffic control.</p> <ul style="list-style-type: none"> <i>Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.</i> <p>Comment: An issue of concern regarding sight line distances and safe vehicle movements is the reversing of vehicles into or out of service/loading bays from/to a relatively constrained one way traffic flow through the site.</p> <p>It is recommended that a condition be applied to require the design of the development to be modified to provide for vehicular servicing/loading to be carried out in a manner that involves forward movements only by those vehicles.</p> <ul style="list-style-type: none"> <i>Discharged stormwater from the development shall not exceed the capacity of the Hannell Street stormwater system. Council shall ensure that drainage from the site is catered for appropriately and should advise Roads and Maritime of any adjustments to the existing system that are required prior to final approval of the development.</i> <p>Comment: Following a request for the submission of additional information to confirm the approved NBI drainage arrangement and the manner of integration of the proposed development, the applicant submitted a Civil Drainage Plan for the overall site which was prepared for TfNSW.</p> <p>The stormwater plans for the proposed building show a proposed 50kL rainwater reuse tank located in the plant room level which will satisfy Council's current DCP site storage requirement. The site discharge will be treated to remove site generated pollutants before connecting to an existing stormwater pipe located within the Newcastle Bus Interchange site.</p> <p>Council's Senior Development Officer (Engineering) reviewed the development</p>

Table 1: Summary of External Referrals	
Agency	Response
	plans (including stormwater plans) and recommended conditions of development consent with respect to stormwater management.
Transport for NSW SEPP (Infrastructure) 2007 Clause 85 and 86 Received: 22.01.19	<p>Transport for NSW has undertaken assessment of the information provided and has granted concurrence to the proposed development, subject to Council imposing the conditions outlined in 'TAB A' of the correspondence. These conditions relate to the provision of additional and final written information to TfNSW for review and approval, prior to any works commencing or the issuing of any Construction Certificate:</p> <ul style="list-style-type: none"> • <i>Final geo-technical and structural report/drawings;</i> • <i>Final construction methodology with construction details pertaining to structural support during excavation or ground penetration;</i> • <i>Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor. All measurements are to be verified by a Registered Surveyor;</i> • <i>Details of the vibration and movement monitoring system that will be in place before excavation commences;</i> • <i>Detailed survey plan;</i> • <i>Acoustic assessment;</i> • <i>Electrolysis report;</i> • <i>Details of balconies/window openings;</i> • <i>Assessment on use of lights, signs and reflective materials which are visible from the light rail corridor;</i> • <i>Details of insurance; and</i> • <i>Consultation regime.</i> <p>TfNSW have provided additional conditions to ensure the protection of the Newcastle Light Rail Corridor during both during construction and operation phases of the proposed development. These conditions include, but are not limited to, the preparation and incorporation of the acoustic assessment and electrolysis assessment; design, installation and use of lighting; currency of public liability insurance; preparation of an Interference Agreement with TfNSW; preparation of a consultation regime for siteworks; liaison with TfNSW; and general conditions regarding the relocation of TfNSW services/infrastructure and the cost of works and signage.</p>
Sydney Trains SEPP (Infrastructure) 2007 Clause 85 and 86 Received: 15.01.19	<p>Sydney Trains has assessed the proposed development in accordance with Clause 86(4) of State Environmental Planning Policy (Infrastructure) 2007. In this regard, Sydney Trains has confirmed that it has granted concurrence to the proposed development subject to Council imposing the 'deferred commencement' conditions and operation conditions attached to the correspondence (refer Appendices A and B in the correspondence).</p>

Internal Referrals – Newcastle City Council Officers

The application documents were referred to the list of specialist officers below, who responded as follows.

Senior Environment Protection Officer dated 18/10/2018

Issues: Contamination, Acid Sulfate Soils, Acoustics and Construction Impacts

No objections to the proposed development provided the recommended conditions of consent are applied.

Senior Development Officer (Engineering) dated 12/02/2019

Stormwater/Flooding

Conditional approval subject to recommended conditions, to be satisfied prior to the issue of a construction certificate.

Traffic Engineer dated 26/02/2019

The primary concerns raised in respect of traffic and parking relate to:

- Safety concerns regarding vehicles reversing into the proposed loading dock and the potential congestion resulting from this practice.
- Safety concerns regarding vehicles entering the basement car park, due to the proximity of the roller door to the property frontage.
- The proposed parking allocation being inconsistent with the provisions of the DCP, in terms of the ratio of spaces allocated to the commercial and residential components of the proposed development. This matter is discussed in detail within the Section 4.15(1)(b) assessment of this report.

It is considered that these concerns can be addressed by way of appropriate conditions of consent. With respect to the reversing of vehicles, it is recommended that a condition be applied to require the design of the development to be modified to provide for vehicular servicing/loading to be carried out in a manner that involves forward movements only by those vehicles.

Design Review Panel (DRP) and Urban Design Consultative Group (UDCG)

The concept application was reviewed by the Design Review Panel on four occasions and by the Urban Design Consultative Group on two occasions. There were no specific meetings held in relation to the subject commercial building, although the building was considered in the context of the wider concept plan. Refer discussion later in this report on the design excellence process. Detail on each meeting is provided at Section 5 of the concurrent report on the Concept Plan DA-2018/01109.

6. Section 4.15 Considerations

(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

Draft SEPPs: A number of draft State Environmental Planning Policies or updates have been exhibited and are/or under consideration by the Department of Planning and Environment, however, are not relevant to the application.

Draft Remediation of Land State Environmental Planning Policy

The proposed Remediation of Land SEPP is intended to repeal and replace *State Environmental Planning Policy No. 55 – Remediation of Land*. The draft SEPP, which was exhibited from 25 January to 13 April 2018, is currently under consideration. The proposed SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including: outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly lists remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent. Site contamination and remediation will be undertaken as part of the various stages of the development, with the approval process for remediation discussed in the SEPP 55 section of this report to the JRPP.

(a)(i) the provisions of any environmental planning instrument

Section 6 of the concurrent report on the Concept Plan DA-2018/01109 addresses broad strategic planning documents relevant to the site and development, including the Greater

Newcastle Metropolitan Plan 2036, the Hunter Regional Plan 2036 and Local Planning Strategy 2015.

State Environmental Planning Policy (State and Regional Development) 2011

The Concept Application is referred to the Panel in accordance with the EP&A Act, Regulations and Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011 (Part 4 'Regionally Significant Development', noting that the capital investment value of the proposed development exceeds \$30 million and is therefore captured within Schedule 7 for 'Regionally Significant Development').

State Environmental Planning Policy (Infrastructure) 2007

Division 15 "Railways" Subdivision 2 (Development in or Adjacent to rail Corridors and Interim Rail Corridors – Notification and other requirements) is also applicable. Clause 85 (Development Adjacent to Rail Corridors) and Clause 86 (Excavation In, Above, Below or Adjacent to Rail Corridors) applies. Where the clause applies, the concurrence of the rail authority is required to be obtained prior to the granting of consent.

Hence, the application was referred to Transport for NSW and Sydney Trains given the proximity of proposed buildings within the Concept Plan to the existing heavy and light rail corridors. Both Transport for NSW (TfNSW) in its letter dated 22/1/2019 and Sydney Trains (letter dated 15/1/2019 provided concurrence and conditions relating to a range of matters including acoustic and electrolysis assessment, and provision of a geotechnical report. Refer to Appendix A of this report for the full list of conditions.

Division 17 'Roads and Traffic' Subdivision 2 (Development in or Adjacent to Road Corridors and Road Reservations) of the SEPP is applicable, with Clause 101 (Development with Frontage to Classified Road) requiring feasible access from a road other than a classified road. Further, the safety, efficiency and operation of the classified road must not be impacted by any vehicular access, emissions or traffic movements. Stewart Avenue is a State Classified Road as listed on the Schedule of Classified Roads and Unclassified Regional Roads. The main access to the commercial building will be via Beresford Lane. Access to the approved car park and future mixed use building is also proposed from a signalised intersection at Hunter Street/Denison Lane (to the NBI and proposed carpark), with a further point of access provided from Stewart Avenue. The positioning of such access points was endorsed as part of the REF approval. An additional lane will now also be incorporated within the access driveway leading from Hunter street to provide ingress to the proposed carpark. The positioning of this lane was approved as part of the Stage 2 Carpark DA.

Clause 104 requires development specified in Column 1 of the Table to Schedule 3 (Traffic generating development to be referred to the RMS). The development proposes 40 basement car parking spaces and proposes a retail/commercial GFA of 16,689m², with access within 90m of a classified road which triggers the requirement for referral to the RMS.

The RMS provided correspondence dated 29/1/2019 indicating the proposal to be unsatisfactory (refer comments in Table 2 above). However, following the submission of an updated Traffic Impact Assessment, RMS has advised (letter dated 28/2/2019) that they raise no objection to the application.

The provisions of the Infrastructure SEPP can be met via appropriate conditions of development consent.

State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (Coastal Management) 2018 came into effect on 23 March 2018 and replaces the Coastal Protection Act 1979 and State Environmental Planning Policy No. 71 – Coastal Protection. The Coastal Management SEPP aims to protect, manage and preserve natural, cultural, recreational and economic attributes of the NSW

Coast and marine area. Clause 5 indicates that the Policy applies to land the whole or any part of which is within the 'coastal zone'. The subject land is mapped as being within the 'coastal environment area'. Clause 13 of the SEPP states that development consent must not be granted to development on land that is within the coastal environment area unless the consent authority is satisfied that the proposed development will not cause an adverse impact on: the integrity and resilience of the biophysical, ecological and hydrological environment, including surface and groundwater; coastal environmental values and processes; water quality of any sensitive coastal lakes; marine vegetation, native vegetation and fauna and their habitats; existing public open space and access to and along the foreshore; and Aboriginal cultural heritage. As the subject development is located within a well-established dense urban setting, there are no likely impacts to this environment, especially with regards to the biophysical environment and coastal processes and maintaining public access to the foreshore.

State Environmental Planning Policy 55 - Remediation of Land

A 'Report on Stage 1 Targeted Site Investigation (Contamination)' was prepared by Douglas Partners in May 2016 over all lots which are the subject of the Concept Application and was submitted in conjunction with the REF for the NBI. This report has again been submitted in conjunction with the Stage 3 Commercial DA. Douglas Partners confirm that *"the results of the site history review and site inspection indicated a long history of commercial landuse and potential contaminant sources at the site and adjacent sites, including possible vehicle servicing, blacksmith, chemical storage, wash bay, grease trap, demolition of structures, imported filling, adjacent commercial landuse and adjacent fuel storage....The investigation identified widespread fill materials across the site with minor soil and groundwater impacts."*

This investigation and testing indicated the following:

- *The presence of PAH impact in soils, likely to be attributed to imported filling containing coal, ash and slag;*
- *The presence of building rubble in filling at several locations, including asbestos containing materials in filling at Bore 1 in the south-western portion of the site;*
- *Minor exceedances of adopted groundwater investigation criteria for heavy metals and PAH, likely to be attributed to regional conditions;*
- *Only minor propensity of PAH impacts in soil to leach into groundwater. It is noted, however, that the water leach testing method is a conservative method of assessing leachability and is not representative of in situ leaching mechanisms;*
- *The presence of potential acid sulphate soils on the site from a depth of approximately 2 m below the ground surface across the central and northern portions of the site. Disturbance of acid sulphate soils and associated groundwater would require treatment/management during excavation works.*

Douglas Partners conclude that the potential for gross contamination from off-site land uses was generally considered to be low. They conclude that *"The site is considered to be generally suitable for the proposed development, subject to some remediation and/or management of identified impacts"*. This includes:

- *Remediation and/or management of filling containing elevated PAH concentrations. The impacted filling was generally encountered within the top 1 m to 2 m of the soil profile. Remediation options generally include excavation and off-site disposal, or on-site management of impacted soils;*
- *Remediation and/or management of asbestos containing materials within filling. Remediation options include excavation and off-site disposal, or on-site management of impacted soils;*
- *Management of acid sulphate soils where disturbed, in accordance with a site specific acid sulphate soil management plan.*

Douglas Partners acknowledge that excavation of a basement level may also be proposed and note that if this is the case then *"excavation of PAH and asbestos impacted filling plus*

excavation of acid sulphate soils may be required as part of basement construction works.” Further, they recommended that “the presence and extent of identified impacts is further assessed following demolition of site structures which currently cover a significant portion of the site. Site remediation and management should be conducted in accordance with a site-specific Remediation Action Plan (RAP) which would present remediation strategies, procedures and validation criteria for remediation of the site for the proposed landuse.”

Douglas Partners conclude *“On the basis of the investigation, the site can be made suitable for the proposed development subject to localised remediation of the identified contamination in accordance with a site-specific RAP. Additional investigation is also recommended following the demolition of site structures in order to confirm remediation requirements.”*

Provisions of SEPP 55 and Conclusion

Clause 7 (Contamination and remediation to be considered in determining development application) requires that a consent authority must not consent to the carrying out of any development unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is 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 to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The Statement of Environmental Effects prepared by KDC indicates the following with respect to the timing of site remediation:

“Any necessary management and remediation works associated with the potential for contamination at the site is to be undertaken as part of the Part 5 Approval for the NBI. The recommended mitigation measures for the REF works will be adopted for the ground and sub-surface construction works as a precautionary approach to minimize potential contamination impacts.”

“Site remediation and management would be conducted in accordance with a site-specific RAP detailing remediation strategies, procedures and validation criteria for onsite remediation.”

Council’s Regulatory Services Officer has reviewed the application and background documentation and has advised of the following:

“Given the separation of the approvals, consideration needs to be given to ensuring that the remediation requirements for the multiple projects are appropriately coordinated. The retail and commercial development SOE indicates evidence of contamination and the need for specific management and further investigation following the completion of demolition of site structures is required to adequately characterise the potential for contamination (Douglas Partners, 2016) (S5.8.3).

The SOE goes on to state:

‘There is the potential that any remediation required may be defined as ‘category 1 remediation’ under clause 9 of SEPP 55. Category 1 remediation work requires consent. However, clause 19 of SEPP 55 provides that if another SEPP permits remediation work without development consent, then SEPP 55 does not impose a consent requirement on a proposal.

Environmental management works are permitted without consent under clause 79(2)(d) of the Infrastructure SEPP. Any remediation work required for the proposal would meet the definition of environmental management works, and therefore does not require consent.”

Reference to NBI REF (Section 13.4.1) confirms that contamination remediation works will be required and site remediation and management should be conducted "*in accordance with a site-specific remediation action plan (RAP) detailing remediation strategies, procedures and validation criteria for onsite remediation.*"

The NBI Condition of approval No.33 provides that detailed investigation into contamination is to be undertaken prior to construction commencing and that specific requirements for further investigation, remediation or management of any contamination shall be included within the Construction Environmental Management Plan CEMP (with the preparation and implementation of a CEMP addressed by other conditions).

Regulatory Services Unit's typical approach to DA assessment when a RAP is needed is to require the submission of the RAP document with the application, so that Council may appreciate feasibility of the proposed works and compatibility with the development plans. The State-issued approval for the NBI provides an alternative approach (i.e. providing an approval which accepts that the remediation requirements will be subsequently determined and implemented without seeing the RAP up-front). Considering the following factors:

- the relationship between the approvals (and that approval for NBI has already been issued),
- the NBI accounts for the bulk of the land area for disturbance,
- the requirement contained in the NBI approvals for the subsequent further assessment/remediation,
- the commitment for the retail and commercial development to adopt the remediation requirements identified for the NGI, and
- the relatively low risk of contamination impacts associated with the proposed retail and commercial use,

It is considered satisfactory to condition the approval such that a RAP can be prepared prior to commencement of the construction, and for that RAP to be then adopted for the subsequent works. “

Recommended conditions have been provided by RSU which should be applied to any consent issued for the Stage 3 Commercial Building.

Newcastle Local Environmental Plan 2012

This assessment only addresses provisions of NLEP 2012 that are relevant to the application.

Figure 5: Extract of Height of Land Zoning Map showing the site being a B3 Commercial Core Zone (LZN_004G). Property boundary shown edged in red. Approximate footprint of proposed building in black.



Clauses 2.1 to 2.3: Zoning and Land Use Table

The subject property is included within the Commercial Core zone under the provisions of the *Newcastle Local Environmental Plan (NLEP) 2012*. The objectives of the B3 zone are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide for commercial floor space within a mixed use development.
- To strengthen the role of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter region.
- To provide for the retention and creation of view corridors.

Permissibility

The proposed use for the subject proposal is for a '**commercial premises**', defined within the Dictionary as any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

The premises will feature ground floor retail premises and business / office premises on the upper floors and therefore permissible. The proposed development meets the objectives of the zone, in particular given the proximity to a public transport node.

Clause 2.7: Demolition

Not applicable: demolition of structures on the site has been approved independently under a Part 5 REF.

Clause 4.3: Height of Buildings

This clause limits buildings heights to that shown on the 'Height of Buildings' Map which specifies a maximum building height of 90 metres for the land. The applicant has indicated that the proposed commercial building has a height of approximately 53.3m. However, an assessment of the plans and indicated ground levels indicated that the building could be up to 53.7 metres in height. Notwithstanding this, the maximum RL indicated on the plans for the top of the plant level/lift overrun is RL56.4. The roof of the commercial Level 11 is RL49.9. The roof of the plant level is RL55.4. This is inconsistent with the Concept Plan diagrams, which indicate a maximum level of RL57. If this full envelope was utilised, potentially two additional commercial floor levels could be included (if the plant level was removed). It is recommended that a condition be imposed (for both the Concept Plan consent and the commercial building) indicating that the maximum building envelope for the commercial building reflect the architectural plans for the commercial building, not the submitted concept plans which indicate a maximum height of RL 57.

Clause 4.4: FSR and Clause 7.10: FSR for certain development in Area A

This clause limits building floor space ratios to that shown on the 'Floor Space Ratio' Map which specifies a maximum floor space ratio (FSR) for the site of 8:1. However, the application of clause 7.10 also affects the FSR as the site is located within Area A of the Map. Clause 7.10 therefore reduces the allowable FSR for the site to 5:1, for development that is not defined as a 'commercial building'.

The development involves a commercial building. However, it is part of a staged development proposal for the site, for which gross floor area (GFA) and FSR have been calculated holistically (refer to separate report on Concept DA-2018/01109). In summary, the total FSR proposed by the Concept Plan (including the subject commercial building) is 58,234m², which equates to an FSR of 4.84:1, and which is therefore compliant with clause 7.10 of NLEP 2012. This calculation includes a GFA of 752m², for 58 parking spaces which are surplus to Council's requirements.

The proposed GFA for the commercial/retail building is 16,689m². If the Concept Plan did not exist/apply, with a wider site area of 12,031m², the FSR equates to 1.39:1 (assuming no other buildings/GFA existed on the site), which complies with Clause 4.4.

Proposed Subdivision: a current application to subdivide the land into two allotments is currently being considered by Council. This is not relevant to this commercial building application, however it is noted that the proposed subdivision intends to create a separate lot (of 1784m²) for the commercial building footprint/site. If subdivided, the FSR would be 9.4:1, and would exceed the maximum 8:1 FSR.

Clause 4.6 'Exceptions to Development Standards'

The Concept Application is accompanied by a 'Clause 4.6 Variation to Development Standard Statement' prepared by KDC which seeks variation to the building separation requirements of Clause 7.4. Therefore, a clause 4.6 variation to this standard may be considered and is discussed in the following section of this report.

Clause 5.10: Heritage Conservation

The subject site contained the former Newcastle Co-operative Store which is identified as a local heritage item in NLEP 2012, with approval for the demolition of this building (and the carpark) granted as part of the Part 5 approval for the NBI. A number of other heritage items are located in proximity to the site including the former Castlemaine Brewery (now the Quest Apartments) located to the immediate south at 787 Hunter Street (State listed item) and the

Cambridge Hotel located to the immediate southwest at 789 Hunter Street (local listed item). The subject site is also located within the Newcastle City Centre Heritage Conservation Area as mapped by NLEP 2012. A Statement of Heritage Impact prepared by Artefact (dated September 2018) accompanies the development application. Further discussion of the manner in which Clause 5.10 of NLEP 2012 and relevant provisions of NDCP 2012 are met is contained in the Section 4.15(1)(b) assessment of this report.

Clause 6.1 Acid Sulfate Soils

The site of the commercial building is identified on the as having potential Class 3 acid sulphate soils (ASS). Under this clause, development consent is required for the following works within Class 3: *“works more than 1 metre below the natural ground surface. Works by which the water table is likely to be lowered more than 1m below the natural ground surface.”* The commercial/ retail building will involve the excavation to a depth of RL-0.1 (ie. requiring excavation of approximately 3m below the natural ground surface) to facilitate the construction of the basement carpark. An acid sulfate soils management plan (that relates to the wider concept plan site) accompanies the application. Council’s Senior Environment Protection Officer assessed the application and provided the following comments:

“The existence of soils with potential acid generation capacity is established in the ‘Stage 1 Targeted Site Investigation.’ To address the issue, an Acid Sulfate Management Plan has been prepared and submitted. The plan has been prepared in accordance with the Acid Sulfate Soil Manual and provides the framework to address acid sulphate soils through management strategies, a monitoring program and contingency procedures. (Should the application be supported), A condition of approval (should) be provided requiring the adoption and implementation of the plan.” Therefore, this clause can be satisfied.

The applicant indicates (SEE p32) that *“the potential disturbance of ASS during ground works and footings have been assessed under the NBI Part 5 Approval. The REF for the NBI includes the remediation of the entire site to the depth of RL -0.1, including the removal or treatment of acid sulphate soils.”* However, a review of the NBI Part 5 Approval does not reference any documentation or conditions relating to ASS, nor provide any plan including the commercial building portion of the wider concept plan site.

Clause 6.2 Earthworks

An objective of this clause is “(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.” The commercial building will involve excavation to a depth of RL-0.1 to facilitate the construction of the basement car park.

The applicant has also indicated that as the site contains acid sulfate soils (deemed as contaminated soils under the *Lands Management Act 1997*), all contaminated soils are proposed to be removed from the site (as described in the Review of Environmental Factors for the Newcastle Bus Interchange). The documents submitted with the application for the Aboriginal Heritage Impact Permit (AHIP) did not anticipate excavation, therefore a variation to the AHIP will be required and is recommended as a condition of consent (refer discussion under heading ‘Aboriginal Heritage Impacts’).

Clause 7.3: Minimum building street frontage

This clause requires buildings within the B3 Commercial Core zone to have at least one frontage of 20 metres. The building has a frontage to Beresford Lane of approximately 52 metres and Stewart Avenue of approximately 39 metres and complies with this clause.

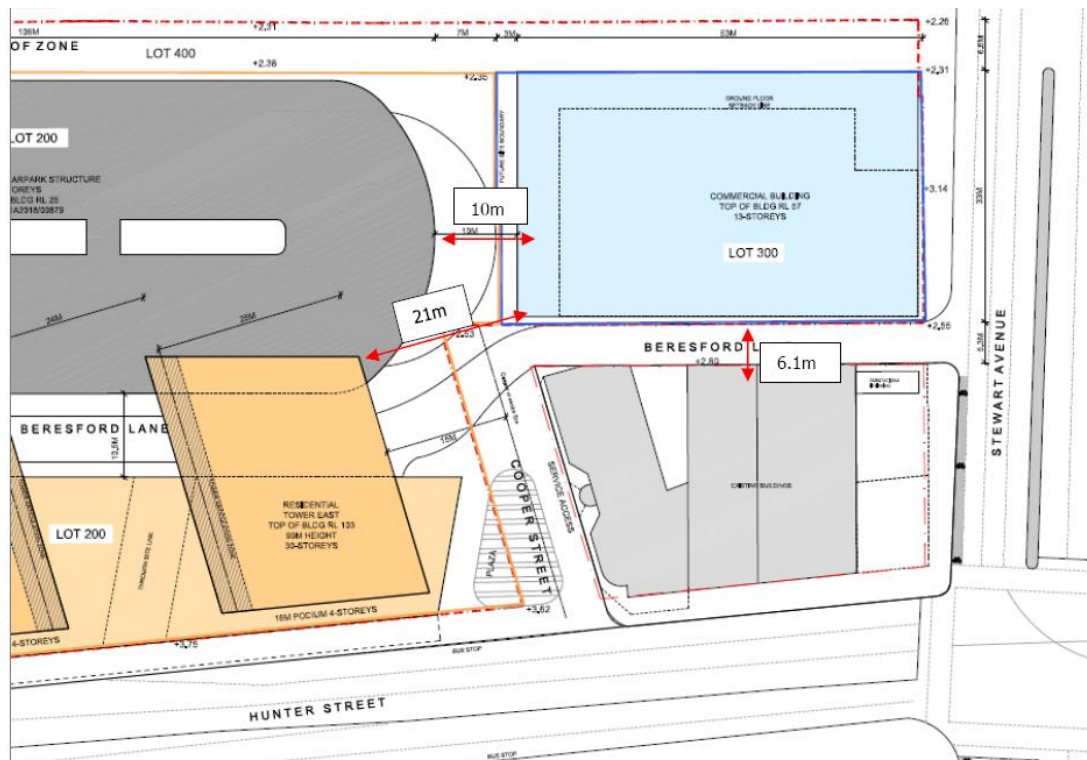
Clause 7.4: Building Separation

The proposal exceeds 45 metres in height and therefore this clause applies. It is noted that only the very upper portion of the upper level (Level 11) exceeds 45m in height (in addition to the plant level, which does not include windows and is set back from the main building façade at the west, north and eastern edges). The remaining floor levels for commercial use are less than 45m high.

The proposed development does not comply with the building separation distances to the following proposed/future building envelopes:

- 21m to the future residential tower on the same land (ie. deficient by 3m). This applies to the future proposed building separation to the north-eastern corner of the eastern tower of the Concept Plan for the site (21m separation to a minor portion of the corner of Level 11 only). The impacts can be readily assessed having regard to the proposed building envelope presented in the concurrent application.
- 6.1m to the northern boundary of future buildings located on the southern side of Beresford Lane (building separation distance not known). This only applies if these sites are amalgamated and redeveloped with a building exceeding 45 metres in height.

Figure 6: Building Separation distances (Source: Bates Smart)



Therefore a Clause 4.6 Variation Statement is provided with the application - Refer Appendix E. Note: the Clause 4.6 Statement incorrectly addresses the separation distance to the approved multi storey car park building (above the bus interchange). This is not relevant to clause 7.4 as the car park building does not exceed 45m in height (it is a maximum of 22.6m high). The following (edited) excerpt from the applicant's statement summarises the justification:

“Eastern Residential Tower:

The relationship between the commercial building, (and) eastern residential tower has been carefully considered as part of the overall Concept Plan for ‘The Store’. The positioning and bulk and scale has undergoing significant modelling to ensure the

proposal delivers acceptable outcomes. In particular the following elements have been considered and informed the building separation:

- Extend the existing city grid into the site;*
- Fine grain network of streets and blocks that connect to existing streets;*
- Continuity of public domain*
- Pedestrian gathering nodes;*
- Orientation of buildings to facilitate daylight access to the public domain.*

It is important to note, that an intensive design excellence process has ensued to arrive at the form and massing for the site; which has been tested and optimised to create a superior outcome for the public domain and for its appropriateness in context. The LEP envelope was tested and manipulated to arrive at the proposed massing.

It is anticipated that both residential towers can achieve ADG compliance, providing excellent amenity to all the apartments even with the reduced building separation distances.

It is acknowledged that the intent of the building separation development standard is to ensure adequate distance is provided between developments to improve amenity, increase solar access, reduce noise issues and limit overlooking, between residential and non-residential uses and with boundaries to neighbours.

The granting of development consent will enable a high quality, architecturally designed commercial building to be constructed with an active ground floor presence for the benefit of the community. The objectives of the Newcastle City Centre will clearly be met by the proposed development. In light of this, there is considered to be sufficient environmental planning grounds to justify varying this development standard in this instance.

Southern Separation:

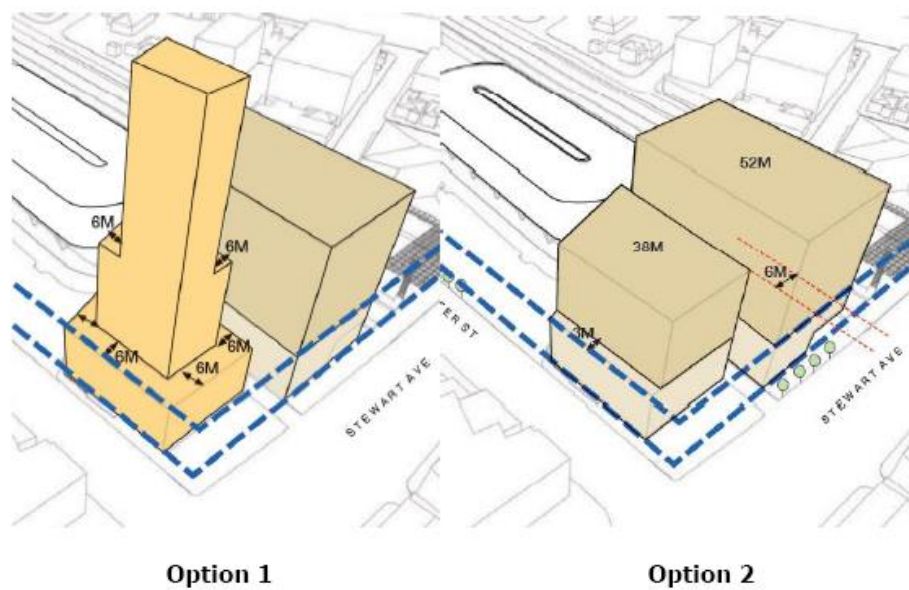
Bates Smart have completed a comprehensive assessment of the potential bulk and scale massing for the adjacent sites to the south of the commercial building. The Urban Design Strategy..undertaken by Bates Smart recognises the importance of the future development potential of adjacent sites.

The following analysis of setbacks and development potential has been undertaken of the adjacent site, immediately to the south of the proposed commercial building. Two options were considered, namely:

Option 1: a ADG compliant residential building envelope; and

Option 2: a podium with large floor plate which disregards the setbacks for a residential development.

Figure 7: Southern Site Modelling (Source: Bates Smart)



Option 1 illustrates when applying compliant setbacks to the adjacent site of 1,098m², over a maximum permissible height of 90m and a maximum FSR of 8:1, the buildings footprint becomes non-viable as a commercial or residential scheme with 170m² and 370m² floorplates.

Option 2 demonstrates that by reducing the height of the building envelope and distributing floor space to lower floors, the development breaches the DCP setback constraints, but allows the building to accommodate minimum floor plate sizes of 1,480m². However, the site is not capable of reaching 45m as the site achieves a FSR of 8:1 at 38m.

Whilst the proposed development does not meet the building separation requirements specified in Clause 7.4 of NLEP 2012, the proposal has considered the future development potential of adjoining sites and contributes positively to the locality incorporating through-site links which enable view sharing, pedestrian connectivity and built form relief. The reduced building separation distance will be visibly difficult to detect to the eastern residential tower; and as demonstrated in the Architect's drawings. These drawings illustrate that the proposed development does not cause an unreasonable amount of shadowing or amenity impacts."

Comment: While the objectives of the controls are not stipulated in the LEP clause, the intent of the building separation control indicated in the applicant's statement above is concurred with (amenity, solar access, overlooking etc). It is also agreed that the non-compliance with the building separation of 21m (instead of 24m) between the north-eastern apartments of the future residential tower on the same land (that are above 45m) and the south-western corner of the commercial building (at Level 11 only above eye level) will not have unreasonable impacts.

However, in relation to the impacts to the properties to the south (834-850 Hunter Street) – this is unknown as it depends on the sites being amalgamated and a building exceeding 45m to be built. The non-compliance would apply to Level 11 only (above eye level) of the proposed commercial building. However, the proposed commercial building, being built to the southern boundary and not in compliance with the DCP setbacks, would limit the land use and built form of this land to the south and the ability to achieve the required 24m

setback, if it were to be redeveloped above 45m in height. As a basis for justification, the applicant predicts the development of a 100% commercial use building (not exceeding a height of 45m) to be built on this site (due to site area and floor plate viability). The same argument is used for the subject site, with an analysis provided at **Appendix G**. While this is a reasonable prediction, if the commercial building is sited as proposed, the JRPP needs to accept that the redevelopment of an amalgamated site to the south would likely be limited to a commercial (ie. non-habitable) use building. If a mixed use/residential tower exceeding 45m was proposed, having regard to the orientation of the proposed commercial building, it would also need to accept that only the top level floors would be likely to achieve the required solar access and amenity outcomes. The lower levels will be overshadowed for the majority of the year. If this site were to be developed on this adjacent site to the south (if amalgamated) for a commercial use only building, the building separation would comply as either (i) the southern building would not exceed 45m height; and/or (ii) non-compliance would be acceptable as the non-habitable (commercial) use of both adjacent buildings would limit consideration of amenity impacts.

Refer also to the analysis and discussion on the redevelopment potential of 834-850 Hunter Street later in this report. Having regard to the planning considerations, and inevitable impacts and likely built form and land use of this adjacent site (if amalgamated), the proposed commercial building envelope (and resultant/anticipated future building separation above 45m) is considered acceptable. The Clause 4.6 Variation Statement is therefore supported.

Clause 7.5 Design Excellence (Newcastle City Centre)

Clause 7.5 applies to the erection of a new building or to significant alterations to an existing building and states that a consent authority must not grant consent to development within the Newcastle City Centre unless the development exhibits design excellence. Subclause (4) states that development consent must not be granted for development having a capital value of more than \$5,000,000 on a site identified as a "Key Site" (both which apply to this DA) unless an architectural design competition has been held. This clause does not apply if certified by the Director General. In correspondence from the NSW Government Architect's Office (as a delegate of the Director General) dated 1 February 2018, the design process for the whole-site redevelopment is set out to ensure that the design will achieve design excellence. Hence this comprises a waiver to the requirement for a competition pursuant to subclause (5), subject to the following conditions (stipulated in the Government Architect's correspondence dated 1 February 2018):

"A process of design integrity is to be established to ensure the competition winning scheme retains design excellence through to construction. This should include continuing review through design development by the DRP. A record of this process including DRP meeting minutes and proponent's responses should form part of the final development application to Council.

In response to a request to clarify the role of the Design Review Panel past the lodging of the Development Applications we provide the following information;

The role of the Design Review Panel continues through to construction unless deemed unnecessary by the design Review Panel themselves. The DRP should continue to review the proposal through the documentation period to review;

- public domain design development*
- materials and detailing,*
- heritage interpretation strategies*
- other issues arising through the design documentation phase.*

Any significant changes (as would require a Section 96 modification application) should be reviewed by the Design Review Panel. The Design Review Panel can also be reconvened at the request of the proponent, Newcastle Council, Hunter Development Corporation or Transport NSW."

As mentioned previously, the proposed commercial building will form part of a wider site redevelopment project, for which a Concept Development Application has concurrently been lodged with Council (DA-2018/01109). The commercial/retail building will form an integral part of this site redevelopment project at the eastern end fronting Stewart Avenue and the railway corridor.

The alternate design excellence process followed in respect of this proposal is outlined in the separate report for the Concept DA-2018/01109. In summary

July 2017:	Expression of Interest to HCCDC tender
April 2018:	Doma was announced as the successful tenderer.
15 May 2018:	Design Review Panel Meeting 1
29 May 2018:	Design Review Panel Meeting 2
6 July 2018:	Design Review Panel Meeting 3
7 August 2018:	Design Review Panel Meeting 4
18 September 2018:	Urban Design Consultative Group Meeting 1
11 December 2018:	Urban Design Consultative Group Meeting 2

The documents presented to the DRP and the UDCG and the respective notes for each meeting have been reviewed (summaries of these meetings are provided in the concurrent report for the Concept Plan DA). From very early on in the design development, the commercial building (ie. proposed by this application) presented largely as submitted in this development application, with some minor refinements. The rationale for the street wall heights (not in compliance with the DCP) is referenced early in the design development phase. It is acknowledged that very little (if any) discussion on the commercial building in these notes, which is largely focused on the mixed use building (dual tower) and relationship to the (now approved) Bus Interchange and car park building.

The only specific comment in relation to the commercial building is “*A street awning element for the commercial building should be investigated along Stewart St*” at the meeting of 6 July 2018. This has been provided in the development application design. The UDCG notes from its 18 September 2018 meeting states that “*the group recommends the master plan provide greater consideration of the interface with adjacent sites, including the unresolved future of the small buildings and substation area to the east of the proposed podium (ie. of the mixed use tower site)....The Group supports the scale and setout of the three towers and associated podium.*”

The later (11 December 2018) comments in response to the above are associated with the interface at the ground floor/public domain only, which state “*Planning of the ground floor about the podium has emphasised the axis to the station. The podium incorporates and open plaza from Hunter Street at the eastern end with a second through-site access at the centre, able to be closed or restricted after hours.*”

Having regard to the above, it is accepted that both the DRP and UDCG have endorsed the built form of the proposed commercial building and the proposal has followed the process stipulated within the NSW Government Architect’s correspondence.

Table 2 below addresses how this Clause is satisfied. It is considered that the development exhibits design excellence.

Table 2: Compliance with NLEP 2012 Clause 7.5 Design Excellence	
Clause 7.5 Provisions	Comment
(3) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:	
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	Satisfied. Refer Section 4.15(1)(b) of this report
(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,	
(c) whether the development detrimentally impacts on view corridors identified in the Newcastle City Development Control Plan 2012,	
(d) how the development addresses the following matters:	
(i) heritage issues and streetscape constraints,	
(ii) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,	
(iii) bulk, massing and modulation of buildings,	
(iv) street frontage heights,	
(v) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,	
(vi) the achievement of the principles of ecologically sustainable development,	
(vii) pedestrian, cycle, vehicular and service access, circulation and requirements,	
viii) the impact on, and any proposed improvements to, the public domain.	
(4) Development consent must not be granted to the following development to which this Plan applies unless an architectural design competition has been held in relation to the proposed development:	
(a) development for which an architectural design competition is required as part of a concept plan approved by the Minister for a transitional Part 3A project,	N/A
(b) development in respect of a building that is, or will be, higher than 48 metres in height,	Applies. Refer (5) below
(c) development having a capital value of more than \$5,000,000 on a site identified as a "Key Site" and shown edged heavy black and distinctively coloured on the Key Sites Map,	Applies. Refer (5) below
(d) development for which the applicant has chosen to have such a competition.	N/A
(5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.	The application is accompanied by correspondence from the Office of Government Architect, as a delegate of the D-G which grants exemption to the requirement for a design competition for the site subject to the implementation of a design excellence process.
(6) The consent authority may grant consent to the erection or alteration of a building to which this clause applies that has a floor space ratio of not more than 10% greater than that allowed by clause 7.10 or a height of not more than 10% greater than that allowed by clause 4.3, but only if the design of the building or alteration has been reviewed by a design review panel.	N/A

Clause 7.6: Active Street frontages in Zone B3 Commercial Core

The objective of this clause is to promote uses that attract pedestrian traffic along street frontages in Zone B3 Commercial Core. The building design incorporates an active street frontage comprising retail premises and the lobby area of the commercial uses at ground floor fronting Stewart Avenue. While not "street frontages", active uses are also provided to the light rail corridor to the north and bus interchange to the west.

Newcastle Development Control Plan 2012

Newcastle Development Control Plan 2012 (DCP) is the applicable Development Control Plan and the Sections listed below are relevant to the proposed development. The controls within Section 6.01 Newcastle City Centre (as amended 17/4/2018) are directly relevant to the site and proposed development and hence are addressed in detail in this section.

The key issues within other DCP sections (listed below), where relevant, are also discussed within the relevant heading under 'the likely impacts of the development' section later in this report.

3.10 Commercial Uses (controls are generally consistent with Section 6.01)

6.02 Heritage Conservation Areas

4.04 Safety and Security

7.02 Landscaping, Open Space and Visual Amenity

7.03 Traffic, Parking and Access

7.05 Energy Efficiency

7.06 Stormwater

7.07 Water Efficiency

7.08 Waste Management

4.01 Flood Management

4.03 Mine Subsidence

4.04 Safety and Security

4.05 Social Impact

5.01 Soil Management

5.02 Land Contamination

5.03 Tree Management

5.04 Aboriginal Heritage

5.05 Heritage Items

5.06 Archaeological Management

5.07 Heritage Conservation Areas

7.04 Movement Networks

7.09 Outdoor Advertising and Signage

7.10 Street Awnings and Balconies

NDCP 2012 - Section 6.01 'Newcastle City Centre'

A response to each of the relevant Elements/chapters contained within Section 6.01 (Newcastle City Centre - Locality Specific Provisions) is provided below:

Part 6.01.02 Character Areas - West End

This section of the DCP contains the character statements and supporting principles for development within various precincts of the Newcastle City Centre. The subject site is within West End'.

The following Principles apply to the West End Precinct:

- 1. New public spaces are created to meet the demands of the future CBD and existing public open spaces are improved, such as Birdwood Park and Cottage Creek. Opportunities for new publicly accessible spaces are identified.*
- 2. Birdwood Park is recognised as an important element in the public domain network and as the western 'gateway' to the city centre.*
- 3. New development fronting Birdwood Park addresses the park edge and promotes a sense of enclosure by being built to the street alignment. Any new development ensures adequate midwinter lunch time sun access to Birdwood Park.*
- 4. Development along the former rail corridor, Cottage Creek, lanes or through-site links provide a building address to encourage activity, pedestrian and cycleway movement, and improve safety.*

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

DCP Principle - Development along the former rail corridor, Cottage Creek, lanes or through-site links provide a building address to encourage activity, pedestrian and cycleway movement, and improve safety. The proposed development will achieve this principle through the provision of ground level retail space which will activate street frontages and pedestrian paths through the site.

Discussion of the ability to meet the other principles and desired future character for this precinct (as per section 6.02 of the DCP) is contained in the following sections of this report which address land use, views, heritage and circulations spaces.

Section 6.01.03 - General Controls

A1 - Street Wall Heights

The required street wall heights for the site is the 'default'/standard 16m street wall height at zero setback to Stewart Street and Beresford Lane. The DCP also requires any development above the street wall height to be set back a minimum of 6m. The proposed development does not comply with this control as the commercial building proposes a building height of 46.8m at the Stewart Avenue and Beresford Lane frontages, with no setbacks, and therefore seeks a variation to this control. Such variations discussed in detail within the Section 4.15(1)(b) assessment of this report.

A2- Building Setbacks

This control specifies that buildings shall have the following setbacks:

- Front setbacks: as per A1 above [zero setback to Stewart Avenue (eastern) and Beresford Lane (southern) to 16m height and then set back a minimum of 6m) – **does not comply**;
- Northern setback: 10m to light rail corridor as indicated in Figure 6.01-14. 6.6m setback proposed (**does not comply**)
- Western setback: N/A as within wider site (NB. this will be a consideration for the 2 lot subdivision application currently being assessed by Council)

The front building setbacks are discussed in detail within the Section 4.15(1)(b) assessment of this report.

With respect to the variation to the required 10m setback to the north, the applicant provides the following justification for the reduced setback *"the proposal better meets the performance criteria of the DCP as the proposed 6.6m setback of the commercial building not only appropriately defines and addresses the frontage and public domain space to the north but it is also consistent with the setback of the (approved) NBI building to the east"* (NB. which is set back 7.6m).

The reason for the 10m controls has been requested and is unclear. The applicant provided the following additional advice with respect to the requirements of this 'future proof zone' in its correspondence of 22 February 2019:

The 6.6 metre 'Future Proof Zone' along the northern boundary that was required by Hunter and Central Coast Development Corporation (HCCDC) and Transport for NSW (TfNSW) tender documentation. The TfNSW Newcastle Bus Interchange Definition Design that was part of the State Governments tender documentation provided for this Future Proof Zone.

Doma have worked with Transport for NSW to ensure that they are comfortable with the proposed setbacks. The proposed commercial building includes an internally accessible walkway to the northern façade to allow building maintenance without entering the TfNSW 'Future Proof Zone.'

An extract of the 'commercial in confidence' 'Bus Interchange Requirements Document' (Ref: 170710.V1 p13) by TfNSW and Doma's Project Delivery Agreement with HCCDC (p61) were provided to Council, which outline the requirement for the Future Proof Zone. The latter documents specifies *"the future light rail (FLR) lot will be at least 6.6m wide parallel and abutting the existing rail corridor, and unlimited in height and depth."*

The proposed setback conforms with these requirements.

A3 - Building Separation

This clause applies to buildings within the same site and specifies for building:

- up to 16m: nil separation
- between 16m and 45m: 9m building separation
- above 45m: 21m building separation

This is achieved between the proposed Commercial Building and both the approved car park (10m separation) and the lower podium levels of the Stage 4 Residential (Mixed Use) building. A variation is sought between these buildings above 45m (refer to discussion under NLEP 2012 Clause 7.5 and Clause 4.6), which is supported.

The DCP also specified that *"building separation distances may be longer for residential and mixed-use developments to satisfy SEPP 65 guidance."* Separation between the residential towers and also from the residential towers to the commercial building is discussed in the SEPP 65 section of this report.

A4 - Building Depth and Bulk

This clause specifies the following for commercial buildings: Above street wall height – maximum GFA of 1200m² per floor and maximum building depth of 25m.

The proposed commercial building has a building floor plate of 1,482m² above street frontage height and a building depth of 31.4m, which exceed both the maximum floor plate and building depth requirements of clause 6.01.03 (A4) of NDCP 2012.

The DCP notes that *"the size of building floor plates has a direct impact on building bulk and urban form. Setting a maximum size of floor plates is also important to allow for ventilation, daylight access, view sharing and privacy in neighbouring development and the public domain."*

The applicant provides the following justification for the non-compliance with this control: *"The proposed development will be consistent with the masterplan and is architecturally designed with specific vertical expressions to break up the bulk and scale of the development."*

It is considered that the building will achieve adequate daylight access (as the building is freestanding, open on all four sides). However, as discussed in the foregoing sections of this report, the built form (larger floorplate, lack of setbacks above street wall height) will limit/restrict solar access to the properties to the south (on the other side of Beresford Lane).

A5 – Building Exteriors

A materials and colours and finishes board is included in the Architect's drawings package. The building's exterior and its contribution to the street and public spaces was a key consideration of the design excellence process.

A6 - Heritage Buildings

The subject site is located within the Newcastle City Centre Heritage Conservation Area as mapped by NLEP 2012. A Statement of Heritage Impact prepared by Artefact (dated September 2018) accompanies the development application. Aboriginal Cultural Heritage is also addressed in the application. Further discussion of the manner in which relevant provisions of NDCP 2012 are met is contained in the Section 4.15(1)(b) assessment of this report.

A7- Awnings

Awnings are required along the Stewart Street frontage and 'highly desired' along the Hunter Street frontage. The commercial building provides a colonnade treatment to the Stewart Street frontage which addresses the objectives of this clause.

A8 – Design of Parking Structures

The commercial building contains basement parking which meet the requirements of this clause.

A9 – Landscaping

Landscaping is proposed along the northern side of the building within the 6.6m setback to the light rail future proof zone.

B1 – Access Network

The DCP identifies a requirement for new pedestrian connections, which include a north/south linkage from Hunter Street extending north from Cooper Street to the NI and also east/west links extending along Beresford Lane and along the future light rail corridor. The Concept Application incorporates the pedestrian connections as intended by this DCP, in particular the adjacent transport corridor, and this development application for the commercial building accords with this.

B2- Views and Vistas

This clause provides requirements relating to views and vistas, with the DCP identifying a view extending north along Stewart Avenue to the Harbour. Views are discussed in detail in the following sections of the Section 4.15(1)(b) assessment.

B3 Active Street Frontages

Street activation is proposed to Stewart Avenue for the commercial building as required.

B4 – Addressing the Street

The building positively addresses the street, with commercial premises' entries at street level; visual connectivity between the ground floor premises and street and light rail corridor in particular. Good opportunities for surveillance of the street are available from all levels of the building.

B5 – Public Artwork

This clause requires public and civic buildings, development on key sites and development over 45m in height are to allocate 1% of the capital cost of development towards public artwork for development. This is recommended to be imposed as a condition of consent for should the application be approved.

B6 - Sun Access to Public Spaces

This clause requires that reasonable sunlight access be provided to new and existing significant public spaces. The proposal does not impact on the specific open spaces listed. Sunlight access to public spaces is discussed in detail within the Section 4.15(1)(b) assessment of this report.

Section 94 Development Contributions Plan 2009

A levy will be payable in accordance with this Plan.

(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

Not applicable.

(a)(iv) any matters prescribed by the regulations

The proposal was reviewed with respect to the relevant EP&A Regulations and are considered satisfactory and/or are addressed elsewhere in this report.

(a) (v) any coastal zone management plan (within the meaning of the *Coastal Management Plan Act 1979*).

Not applicable.

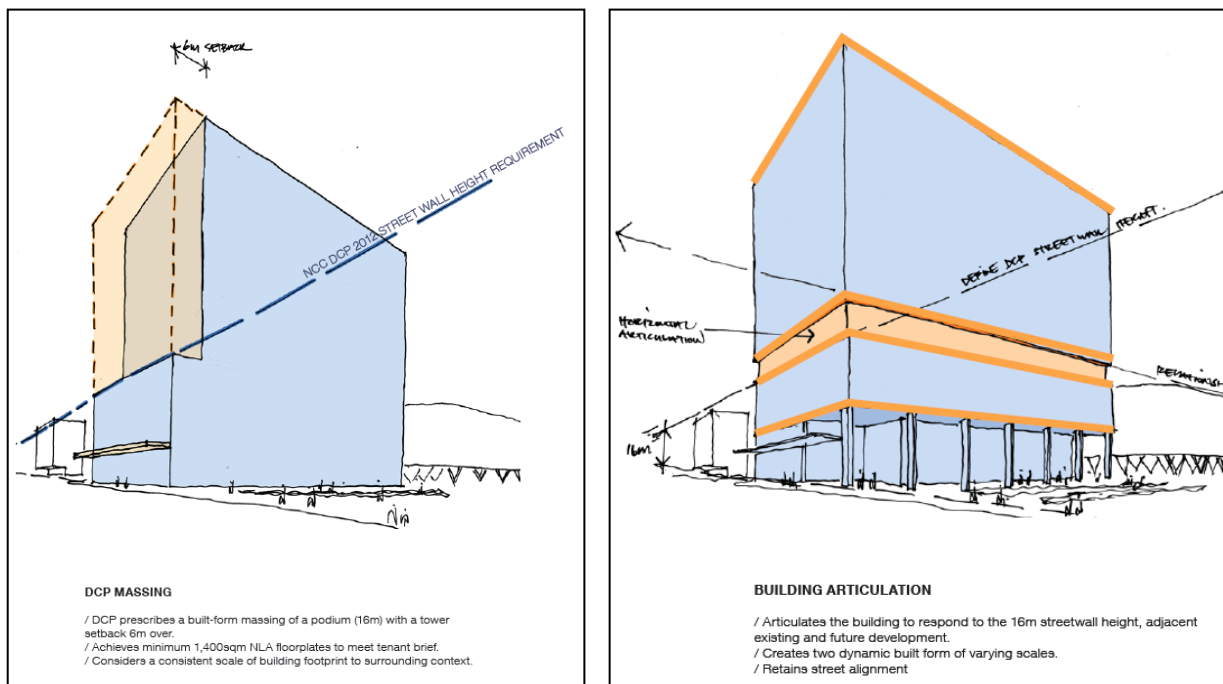
(b) the likely impacts of the development

Building Form

The proposal for the commercial building seeks variations to several DCP controls relating to built form (as listed/addressed below, in addition to Clause 7.5 of NLEP 2012 relating to 'building separation' for which a Clause 4.6 Variation Statement is provided).

Background: As noted earlier in this report, the Concept Plan for the building envelopes within the wider site and the more detailed design for this commercial building has been developed by a design excellence process. This included the massing of the commercial building and the relationship to other proposed buildings within the wider site. Documents presented to the Design Review Panel prior to lodgement of the concurrent applications (Concept Plan and commercial building the subject of this report) also clearly addressed the LEP and DCP controls discussed below. **Appendix F** specifically provides some of this design development information for the commercial building that was submitted with the development application (refer also Figure 8 below). The Design Review Panel and the Urban Design Consultative Group support for the design, including the built form.

Figure 8: Excerpt from ‘Design Approach and Massing’ (p18 Bates Smart and DOMA)



Street Wall Heights and Front Building Setbacks: The required street wall heights for the site is the ‘default’/standard 16m street wall height at zero setback to Stewart Street and Beresford Lane. The DCP also requires any development above the street wall height to be set back a minimum of 6m. The proposed development does not comply with this control as the commercial building proposes a building height of 46.8m at the Stewart Avenue and Beresford Lane frontages, with no setbacks, and therefore seeks a variation to this control.

The DCP includes the following ‘Acceptable Solutions’ for development that vary from the street wall height controls:

- *The street wall height of new buildings may vary if the desired future character is to maintain the existing street wall height of neighbouring buildings, such as heritage streetscapes.*
- *Deeper setbacks above the street wall height may be needed for heritage buildings or conservation areas to maintain the scale of the streetscape and the setting of heritage items.*

Where it can be demonstrated that there will be no adverse impact in terms of overlooking, overshadowing, or streetscape appearance, a variation to the street wall height setback may be possible.

The applicant provides the following justification for the built form and street wall heights (Statement of Environmental Effects, p10 and p38):

The applicant contends that a compliant envelope (refer Figure 9) “creates impractical and small floorplates which is not commercially viable, in particular given that the majority of the proposed development is to be occupied by government tenants. By reducing the height of the building and redistributing to the lower floors, this will breach the DCP 2012 street wall height and building setback controls, but this allows the building to accommodate a minimum floor plate of 1,480m² which is considered to be more commercially viable and suitable for the future tenants.” Refer Figure 10.

Figure 9: and DCP Compliant Envelope (Site Analysis p10 Bates Smart and DOMA)

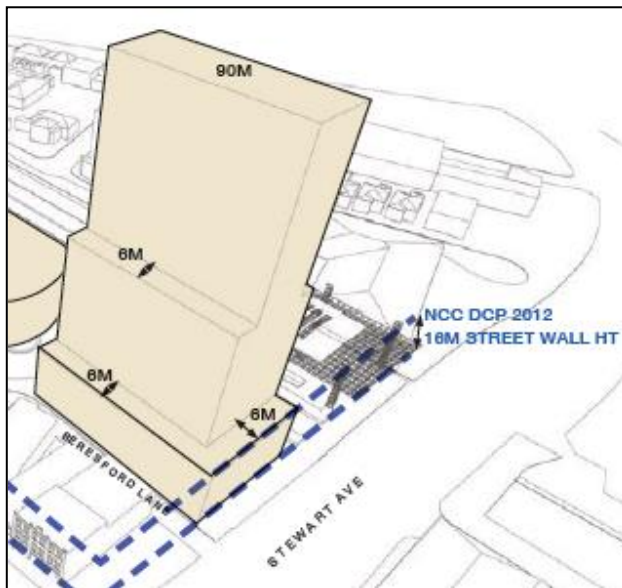
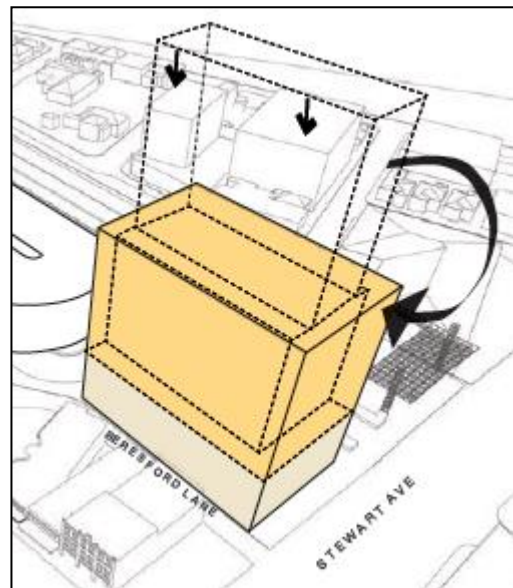


Figure 10: Redistributed Floor Area/Height Reduction (Site Analysis p11 Bates Smart and DOMA)



“The building incorporates architectural features and façade variations to break up the bulk and scale of the development. In particular the first four levels differ in architectural design, incorporating large expanses of glazing, solid horizontal aluminium reveals and perforated aluminium screening to give the appearance of a 16m street wall height.

The variation of the street wall height is also supported as the additional height does not cause any additional overshadowing impacts to adjoining sites or privacy impacts; as the proposed commercial/ retail building will be setback appropriately in to future residential buildings.

In addition, the proposed street wall height will not result in pedestrians feeling overwhelmed and enclosed by the built form; as the proposal will retain a sense of human scale via the activation of the ground floor plane and large expanses of glazing which creates a sense of interaction between the built form elements and public domain. The proposal will have a strong identity fronting Stewart Avenue and will act as a gateway to The Store. To create a sense of identity and human scale, a two storey lobby is proposed to bring transparency for users and pedestrians travelling northbound, so as to soften the corner between Stewart Avenue and Beresford Lane as the building comes to ground.

The forecourt is designed to accommodate landscaping and outdoor seating as a means to soften the strong edge of the building coming to the ground and its immediate interface to the light rail and NBI.”

In relation to the upper level setbacks and building separation to the adjacent land to the south of Beresford Lane, the applicant has stated that the proposed non-compliant setbacks “will not cause an unreasonable shadowing or amenity impact, nor will it impede the development potential, from an amenity perspective, of the southern site.”

The impact on the development potential of the properties to the south (834-850 Hunter Street) is addressed later in this report.

Building Separation

Clause 7.5 of NLEP 2012 requires a 24m setback for buildings above 45m. The DCP applies to buildings within the same site and also specifies for buildings above 45m to have a 24m

building separation. A variation is sought between the proposed commercial building and the proposed future mixed use eastern tower above 45m which provides a separation distance of 21m (ie. deficient by 3m - also refer to discussion under NLEP 2012 Clause 7.5 and Clause 4.6), which is supported.

However, the proposed development provides a 6.1m separation to the northern boundary of the properties on the southern side of Beresford Lane. If these sites are amalgamated and redeveloped with a building exceeding 45 metres in height (unlikely), then the building separation is unlikely to be met. Refer to the discussion under the heading NLEP 2012 Clause 7.4: Building Separation on the impact to the properties to the south (834-850 Hunter Street) is addressed later in this report.

A4 - Building Depth and Bulk

This clause specifies the following for commercial buildings: Above street wall height – maximum GFA of 1200m² per floor and maximum building depth of 25m.

The proposed commercial building has a building floor plate of 1,482m² above street frontage height and a building depth of 31.4m, which exceed both the maximum floor plate and building depth requirements of clause 6.01.03 (A4) of NDCP 2012.

The DCP notes that *“the size of building floor plates has a direct impact on building bulk and urban form. Setting a maximum size of floor plates is also important to allow for ventilation, daylight access, view sharing and privacy in neighbouring development and the public domain.”*

The applicant provides the following justification for the non-compliance with this control: *“The proposed development will be consistent with the masterplan and is architecturally designed with specific vertical expressions to break up the bulk and scale of the development.”*

It is considered that the building will achieve adequate daylight access (as the building is freestanding, open on all four sides). However, the built form (larger floorplate, lack of setbacks above street wall height), while limited, will limit/restrict solar access and view opportunities to the properties to the south (on the other side of Beresford Lane), if amalgamated and redeveloped. While comparative shadow diagrams (in plan form, not 3D) have been provided by the applicant, a detailed assessment has not been provided as to how a mixed use development on this site would achieve ADG compliance in terms of solar access.

View Analysis and Impacts:

The design of the proposal capitalises on opportunities for views toward the harbour to the north-east of the site; CBD views to the east of the site; and the city west and river/wetland views to the north-west and south-west. The applicant states that *“the design does not impede existing views currently from nearby developments and provides view corridors and through-site link.”*

The DCP View and Vista Map (Figure 6.01.24) identifies a view corridor extending north along Stewart Street to the Harbour. The proposed commercial building will not impede these views. The non-compliance with the 6m setback above street wall height at the Stewart Street frontage could reduce slightly the view corridor that could be achieved from properties to the south compared to that available if the setbacks were met. However, this analysis has not been provided and it is noted that the control has been met. Similarly, if the properties to the south (834-850 Hunter Street) were amalgamated and redeveloped in the future, views that may have been available if the commercial building setbacks were met will be limited. However, it is acknowledged that the building heights permitted by the LEP for

the subject site would largely limit the available views from the adjacent properties to the south.

In the context of the city centre location, design excellence process and other planning considerations, on balance, the proposed building envelopes and resultant impact to views is considered to be acceptable.

Solar Access and Overshadowing

The building has a longer northern (and southern) boundary and façade which provides good opportunity to northern daylight for the building and northern colonnade/forecourt with public domain areas with seating. However, this east-west orientation of the building creates significant overshadowing to the south.

The main property impacted is the two storey commercial properties at 834-850 Hunter Street which will be overshadowed in the morning and during the day during both midwinter and the equinox as indicated in the Shadow Diagrams at **Appendix A**. These buildings are then impacted by shadows from the approved multi storey carpark in midwinter afternoons. The extent of overshadowing impact to 834-850 Hunter Street (if amalgamated and redeveloped) has also been provided in plan format (not 3D perspective) showing the impact of a building at the subject site (6 Stewart Avenue) if it complied with DCP street wall heights and setbacks (refer **Appendix G**). The comparative analysis confirms that 834-850 Hunter Street will still receive significant overshadowing in the morning and during the day during midwinter and the equinox even with a compliant building. It is unclear to what extent (as no 3D shadow envelope is provided for the northern elevation in particular), however, it is anticipated that several lower levels will be fully overshadowed during midwinter and equinox. This unavoidable due to the southern orientation and lengthy southern boundary and façade and allowable building heights within the City Centre. The shadow diagrams confirm that a compliant building at No. 6 Stewart Avenue will cast a longer shadow (being a higher building).

In the context of the city centre location, orientation, and other planning considerations, on balance, the proposed overshadowing impact is considered to be acceptable.

Impact on Adjacent Properties to the South (834-850 Hunter Street)

As indicated in the heading above, several planning considerations, including that of non-compliances with the NLEP 2012 (building separation) and DCP, relate to impacts to the future development potential of the properties to the south of the commercial building site (834-850 Hunter Street), assuming amalgamation. This is a likely scenario as the properties currently comprise aging two storey buildings.

Recognising the importance of the adjacent site's future development potential, the applicant has provided a 'Site Analysis' including massing diagrams for 834-850 Hunter Street (refer **Appendix G**). The outcomes of this analysis are summarised below (KDC correspondence 22/2/2919):

"When applying a compliant setbacks to the adjacent site area of 1,098sqm, over the maximum permissible height of 90m and a maximum FSR of 8:1 (maximum GFA of 8,784sqm for a commercial building), the building footprint becomes non-viable as a commercial or residential scheme with 170sqm and 380sqm upper level floor plates.

(Figure 5 earlier in this report) illustrates the modelling of compliant commercial DCP envelopes of the commercial building site and the site immediately to the south. As a result of this modelling, the GFA has been redistributed to lower levels of the building providing larger commercial floor plates which become viable from an economic and operational perspective as well as creating a superior workplace environmental for office workers.

The resulting built forms sit comfortably adjacent with minimal loss of amenity for either property. The site to the south can utilise the height of 44m and could be separated 6m, which is adequate for commercial development. Further, the side core location of each development site being located on the laneway improves any possible overlooking concerns.

Whilst the proposed development does not meet the building separation requirements specified in Clause 7.4 of Newcastle Local Environmental Plan 2012 (NLEP 2012), the proposal has considered the future development potential of adjoining sites and contributes positively to the locality incorporating through-site links which enable view sharing, pedestrian connectivity and built form relief. The reduced building separation distance will be visibly difficult to detect to the eastern residential tower. It is also evident from the revised solar diagrams...that the development is unlikely to cause unreasonable shadowing or amenity impacts."

Refer also to the discussion under Clause 7.4: Building Separation earlier in this report that provides further analysis on setbacks and built form of the adjacent site to the south. Two options were considered, those being:

- Option 1: a compliant residential building envelope with the ADG at allowable building height.
- Option 2: a podium with large floor plates and lower building height (which disregards the setbacks for a residential development)

The assessment concludes that it is unlikely that the site to the south could be developed as a residential development, due to the site size, location and development control restrictions. A lower commercial building may be feasible, however increased setbacks to Beresford Lane would need to be relaxed as a commercial building to commercial building would not result in overlooking to private open space, solar access to living area, view loss or other amenity issues. It is noted that the building separation controls required by Clause 7.5 of NLEP 2012 would not apply as the building would likely be lower than 45m.

Conclusion: Built Form and Associated Impacts

Having regard to overall urban form (including street wall heights and setbacks), the proposed commercial building is satisfactory and will provide a suitable scale and appearance in the context of the site and transport interchange/The Store redevelopment site. The comparative shadow diagrams indicate that there would not be a significant difference to public areas (streets) if compliance was achieved. The building design is considered to provide a human scale through articulation and use of materials.

However, in relation to the impacts to the properties to the south: the proposal is likely to limit the land use and built form of this land in terms of achieving solar access (if residential proposed) and view sharing. The applicant predicts the development of a 100% commercial use building (not exceeding a height of 45m) to be built on this site (due to site area and floor plate viability). The same argument is used for the subject site. While this is a reasonable prediction, if the commercial building is sited as proposed, the JRPP needs to accept that the redevelopment of an amalgamated site to the south would be limited to a commercial (ie. non-habitable) use building. If a mixed use/residential tower exceeding 45m was proposed, having regard to the orientation of the proposed commercial building, it would also need to accept that only the top level floors would be likely to achieve the required solar access and amenity outcomes. The lower levels will be overshadowed for the majority of the year. If Option 2 presented by the applicant (a commercial use building only) were to be developed on this adjacent site to the south (if amalgamated) for a commercial use building, the building separation non-compliance would be acceptable as the non-habitable use of both adjacent buildings would limit consideration of amenity impacts.

Public Domain & Landscaping

The concurrent report on the Concept Application (DA 2018/01109) details the overall landscaping concept for the overall site, including the Bus Interchange area which are “high level”.

With respect to the proposed landscaping for this Commercial Building (refer **Appendix D**), works comprise only the eastern section of the future light rail zone (north of the proposed building); landscaping along the Stewart Avenue frontage; and forecourt paving etc. The level of detail submitted with the Commercial DA is considered to be adequate for this stage given the limited extent of works proposed.

A condition should be attached to any approval issued which requires the submission of a comprehensive landscape design plan and specification, prior to the release of the Construction Certificate. This plan should include details of levels, plant species, retaining walls, surface treatments. Details will also be required regarding maintenance of such spaces, particularly the light rail future proof zone, which was identified as an issue of concern by the UDCG.

A condition should also be attached to any consent issued requiring a contribution of 1% of the capital cost of development to be allocated towards public artwork in accordance with Newcastle Development Control Plan 2012, Section 6.01.03 - General Controls, Part B5- Public Artwork. The development is over 45m in height and is on a key site.

Traffic, Parking & Access

The traffic that is generated by the proposed development will integrate with that of the separately approved (by TfNSW) NBI. The application was referred to RMS under the infrastructure SEPP and, while initially raising concerns regarding the Traffic Impact Assessment, RMS has since advised that they raise no objection to the proposal, on the basis of an updated Traffic Impact Assessment that has been submitted.

The primary concerns of Council staff in respect of traffic and parking relate to:

- Safety concerns regarding vehicles reversing into the proposed loading dock and the potential congestion resulting from this practice.
- Safety concerns regarding vehicles entering the basement car park, due to the proximity of the roller door to the property frontage.
- The proposed parking allocation being inconsistent with the provisions of the DCP, in terms of the ratio of spaces allocated to the commercial and residential components of the proposed development.

The DCP includes a flat car parking rate of one parking space for every 60m² of gross floor area of non-residential development in the City Centre. The establishment of this parking rate recognises the locational advantages of the City Centre in relation to public transport access.

On the basis of the DCP's City Centre parking rate for non-residential development, 278 parking spaces should be allocated to the proposed commercial building that is the subject of this application.

The SOE does not indicate the total number of parking spaces to be provided to the proposed commercial building, but it does provide for a total of 218 parking spaces to be allocated to all the commercial components of the overall Store Site development, representing a shortfall of 160 parking spaces when compared to the requirements of

the DCP (ie DCP requires a total of 378 parking spaces for the overall Store Site development). The SOE seeks to highlight the excellent access to public transport, for the office component of the proposed development in particular. However, the DCP's parking rate for the City Centre already recognises advantages with respect to access to public transport.

It is considered that these concerns can be addressed by way of appropriate conditions of consent. With respect to the reversing of vehicles, it is recommended that a condition be applied to require the design of the development to be modified to provide for vehicular servicing/loading to be carried out in a manner that involves forward movements only by those vehicles.

Contamination

Refer to discussion under heading 'State Environmental Planning Policy No. 55 – Remediation of Land

Geotechnical Constraints

The Concept Application is accompanied by a draft Preliminary Geotechnical Investigation prepared by Douglas Partners, dated 26 May 2016. The report covers the wider 'Store' site, including the site of the commercial building that is the subject of this development application. The report was prepared to identify subsurface conditions, including depth to groundwater; identify site classification; confirm suitable footing types; estimate pile capacities; provide retaining wall parameters; and provide recommendations on site preparation and earthworks. The investigation included 3 cone penetration tests and 12 boreholes which were drilled for the contamination investigations. The report confirms that structural loads are not known at this stage.

The subsurface results generally identified fill to depth of approx. 2.0m to 3.7m; sand to depths of approx. 7.6m to 12.9m; clay and sand to approx. 12.6m to 14.5m; stiff clay from approx. 15m; and bedrock refusal at depths of up to 41.06m. The field work results identified free ground water recorded at depths of 1.8m to 1.9m.

GHD recommend that the upper soil profile be compacted to improve site trafficability and proof rolled. Excavation of the subgrade soils can be achieved by conventional earthmoving equipment however, due to the presence of groundwater additional measures such as sump and pump or trench boxes and sheet piling will be required. Furthermore, any deeper excavation below groundwater may require dewatering, a licence sought from WaterNSW, and further investigation on possible effects to adjacent structures.

The suitable pile types based on the Douglas Partners' investigations are continuous flight auger piles and concrete screw cast piles, with additional types investigated if required. There is variability in subsurface conditions and a detailed geotechnical investigation would be required to refine pile foundations and capacities. The subsurface conditions comprise interbedded clay strata below the proposed pile founding depth and therefore could lead to differential settlements between columns and further investigations are required to assess this further using actual layout of working loads on columns and wall footings.

It is noted that the Geotechnical Report is a preliminary report prepared for UrbanGrowth NSW in 2016, which presumably was prepared in the absence of detailed knowledge regarding future building design and scale. Accordingly, as the design has now progressed, particularly for the commercial building, the applicant was requested to provide supplementary commentary from a geotechnical engineer confirming that they have reviewed the plans, confirming whether their recommendations remain valid and identifying any additional specific recommendations regarding building construction.

A letter was prepared by ADE Consulting Group on 20 Feb 2019 which confirmed that they had reviewed the architectural plans prepared by Bates Smart, the structural plans prepared by Northrop and the Geotechnical Report prepared by Douglas Partners (DP) and they concluded the following:

“The existing subsurface conditions comprised sand overlying clay and then grades into weathered bedrock. The DP report indicated that the weather rock will provide good foundation condition. The piles are proposed installed by grout injections method (CFA), which considered the ideal for the expected subsurface conditions and that is also capable of to avoid potential impact on the surrounding buildings and structures (sic).

Preliminary, there cone penetrations insitu testing to a depth about 43m was carried out and additional 12 boreholes at 4-5m depth were completed by DP. An indicative of 41-43m refusal was detected by CPT which interpreted to be a weather siltstone and sandstone. The groundwater was interpreted at a depth of about 2.0m below existing surface level.

The preliminary geotechnical report also indicated that the site is not within a proclaimed ‘Mine Subsidence District’ and confirmed that no restriction would be expected to be imposed on development.

Based on the above analysis and assessment and proposed development, ADE confirms that the geotechnical recommendations remain valid and confirms that the site is suitable for the proposed development of this nature.”

On the basis of the above it is recommended that a condition be attached to any approval issued for any stage which specifies that a detailed geotechnical investigation shall be submitted to Council for consideration prior to the release of the Construction Certificate, to identify ground constraints, together with engineering design and management strategies for buildings and associated earthworks.

Further, Sydney Trains has requested that the following condition be applied to any approval which is issued for the Concept Application, which will presumably also apply to the staged DAs:

“Any future applications for any structure within 25 metres of the rail corridor shall have its Geotechnical, Structural and Drainage Engineering documentation, and its Construction Methodology documentation endorsed by Sydney Trains prior to the issuing of any relevant Construction Certificate.”

Acid Sulphate Soil Management

The existence of soils with potential acid generation capacity is established in the *Stage 1 Targeted Site Investigation* (Douglas Partners) that accompanies the application. To address the issue, an Acid Sulfate Management Plan (Douglas partners, July 2018) has been prepared and submitted. Council’s Senior Environment Protection Officer (Regulatory Services Unit) reviewed the Plan and indicated that *“the plan has been prepared in accordance with the Acid Sulfate Soil Manual and provides the framework to address acid sulphate soils through management strategies, a monitoring program and contingency procedures. A condition of approval will be provided requiring the adoption and implementation of the plan.”*

Heritage Impacts

The concurrent report on the Concept Application (DA 2018/01109) details the background, key considerations and outcomes of the Statement of Heritage Impact (Artefact, September 2018) for the wider development site. A separate document was submitted detailing the heritage impacts of the commercial building (Statement of Heritage Impact (Artefact, September 2018)

Artefact concludes/recommends the following in Section 8.0 of the report:

“8.1 Conclusions

The Proposal is located within the Newcastle City Centre Heritage Conservation Area, although the subject site itself does not contain any significant fabric. The Proposal is in the vicinity of the State significant Castlemaine Brewery and numerous locally significant heritage items that are listed on the Newcastle LEP 2012. While the Proposal would not result in any direct (physical) impacts to listed heritage items, a range of indirect (visual) impacts have been identified.

The Proposal would result in a minor indirect (visual) impact to the Newcastle City Centre Heritage Conservation Area. The proposed commercial building would result in indirect (visual) impacts to nearby heritage items within a 100-metre visual buffer including negligible to minor impacts to numerous locally significant heritage items including the site of the former Wickham Railway Station Group, the ‘Residence’ heritage item located at 15 Charles Street, and the Cambridge Hotel. The Proposal would result in neutral to minor indirect (visual) impacts to distant locally listed heritage items including those within a 500-metre visual buffer of the subject site.

The Proposal has not been assessed as resulting in any major heritage impacts, either direct or indirect, and the negligible to minor impacts of the Proposal would potentially be offset by positive heritage outcomes. This includes replacement of the existing multi-deck open carpark on the subject site, which is considered an intrusive visual element within the surrounding streetscape and conservation area, and replacement with a new and sensitively developed design that continues the traditional commercial use of the area. The Proposal would allow for activation of the subject site at ground level, which would result in increased public visitation to the site and engagement with its heritage values. This would be strengthened by opportunities that the Proposal would allow for, including the provision of heritage interpretation, which would enhance understanding of the site’s values and associations.

8.2 Recommendations

Given the nature of the impacts associated with the Proposal, the following recommendations and mitigation measures are provided:

- Based on the recommendations from the HIS (Artefact 2018a), a heritage interpretation plan should be developed that addresses the detail of the interpretive approach and content for the Proposal, including identification of appropriate locations. This should occur at the design stage to ensure productive integration. The interpretive plan should include aspects which address the role of the Store building within the Newcastle City Centre Heritage Conservation Area.”*

Safety and Crime Prevention

A report addressing the Crime Prevention Through Environmental Design (CPTED) guidelines accompanies the application (KDC, January 2019). The purpose of this report is to identify and assess crime risk associated with the proposed 12 storey commercial office building, including the four principles for consideration: surveillance, territorial reinforcement, access control and space management.

The report recognises that, “given the proximity of the site of a public transport hub with a lot of passing pedestrians this presents an opportunity for crimes or anti-social behaviour (e.g. vandalism, graffiti, litter, excessive noise) at the site, particularly during night time hours.”

The assessment of the proposal in accordance with the CPTED confirms the proposal can be managed to minimise the potential risk of crime by incorporating appropriate night lighting, site and building layout and landscaping as well as security devices such as CCTV cameras to assist in crime deterrence and prevention.

Due to the proximity to the Newcastle Bus Interchange it is anticipated that a regular flow of pedestrians will pass by the commercial building for good passive surveillance.

Implementation of the above-mentioned measures into the design of the proposal will create an environment that will dissuade offenders from committing crimes by manipulating the built environment in which those crimes proceed from or occur. It is recommended that a condition be imposed on any development consent requiring the strategies be detailed on the Construction Certificate plans to ensure implementation of the measures to reduce crime opportunities.

Energy Efficiency

An Energy Efficiency Report has been prepared by Northrop (Ref. SY181158-SER01, dated 8 October 2017). The report summarises a pathway for the project to achieve a '5 Star Green Star Design' and 'As-Built' rating as required under Section 7.05 of The City of Newcastle's DCP.

The Green Star Design and As-Built framework incorporates ecologically sustainable development (ESD) principals across nine key categories, with points awarded to a project based on the degree to which the project meets the various requirements within these categories:

- Management
- Indoor Environment Quality
- Energy
- Transport
- Water
- Materials
- Land Use and Ecology
- Emissions
- Innovation

The report concludes that various initiatives in the design will result "in the achievement of 63 points which translates to a 5 Star rating". Targeting this level of environmental performance is considered "Australian Excellence". The proposed development has therefore "satisfied the relevant DCP condition required for DA".

Flood Impacts and Stormwater Management

A Flood Risk Assessment prepared by BMT dated 23 August 2018 which has also been submitted for the Concept Application to determine the peak flood levels and flood behaviour at the 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) design events.

Based on their analysis in relation to the commercial building subject to this application: *"The FPL for the commercial building retail outlets is 3.1 m AHD. However, this presents potential connectivity issues with the future Light Rail platform, which is closer to 2.8 m AHD. The principal behind setting the FPL is to minimise potential flood damages, so alternative flood risk management solutions could be put forward to address this, i.e. ensuring that everything within the commercial building below 3.1 m is flood compatible, such as building materials being flood resistant, electrics being situated above this level and no stock kept below this level, etc.*

The point of entry on the access ramp to the commercial building basement level is at around 2.8 m AHD. To satisfy the requirements of Council's DCP, the ramp will be required to grade up to the FPL of 3.1 m AHD prior to descending. The flood planning requirements for the basement level are satisfied, provided that the ramp entry is set at the FPL and any other potential points of water ingress are set above the PMF level of 3.6 m AHD. An FPL of

3.1m AHD is appropriate, above which floor levels should sit as well as basement car park vehicular entries”

In addition

- The finished floor levels along Hunter street, Beresford Lane and Cooper Street should be set above street level*
- On site flood free refuge to be provided above the PMF of 3.6m AHD and 4.2m AHD along Hunter Street*
- Flood evacuation routes to upper levels are to be provided with a Flood Emergency Response Plan*
- Buildings to be structurally able to withstand expected forces of the PMF event*
- Potential off-site flood impacts are expected to be negligible. The overall building footprint of the propose is similar to that of existing buildings on the site which should not result in upstream impacts upon Hunter Street.*

In terms of stormwater, the stormwater plans provided show a proposed 50kL rainwater reuse tank located in the plant room level which will satisfy Council's current DCP site storage requirement. The site discharge will be treated to remove site generated pollutants before connecting to an existing stormwater pipe located within the Newcastle Bus Interchange site.

Council's Senior Development Officer (Engineering) reviewed the development plans (including stormwater plans) and flood report and recommended conditions of development consent with respect to flood and stormwater management.

Wind Assessment

A Pedestrian Wind Environment Statement prepared by Windtech dated 4 September 2018, addresses the design of the proposal and the impact upon the local wind environment on the outdoor areas within the site. Specific comments with respect to the commercial building include:

The pedestrian trafficable areas...are potentially exposed to a number of adverse wind effects:

- Corner areas exposed to the prevailing Newcastle region, such as the ...eastern corners of the commercial building.*
- Down wash wind effects captured off the building façade.*
- Funnelling wind effects between the buildings of the site...in particular the pedestrian footpaths along Beresford Lane.*
- The proposed impermeable awning along the Stewart Avenue frontage of the site is expected to be effective in mitigating the potential down-wash wind effects of the building façade and enhancing the local wind conditions on the pedestrian footpath below.*

Treatment strategies were included within the report to ameliorate the potentially adverse wind effects adjacent to the proposed commercial building are as follows:

Ground Level

- The retention of the proposed impermeable awnings along the Stewart Avenue frontage of the proposed commercial building as indicated in the Concept Masterplan Scheme.*
- The inclusion of the densely foliating trees within and around the subject development as indicated in the architectural drawing; particularly those around the corner areas of the building and adjacent to the outdoor seating areas.*
- The inclusion of densely foliating vegetation such as trees or shrubs/hedge planting along the western boundary of the western outdoor seating areas of the commercial building.*
- Note the densely foliating vegetation is recommended to be of an evergreen species to ensute their effectiveness in wind mitigation throughout the year.*

As the proposed building incorporates an awning along the Stewart Avenue façade, in addition to recommended conditions, wind effects of the proposed building have been adequately addressed and are satisfactory.

Waste Management Plan

A Waste Management Plan has been submitted with the application prepared by KDC addressing the construction stage and operation stage of the development. Construction waste will be collected within the site area and transported off site via covered truck or other safe means. In addition, all material to be brought to the site is to be tested and verified by the site contractor.

For the operation phase, the weekly waste generation rates have been calculated

Land use	Waste generation rate	Recycling generation rate	Proposed bin provision
Offices	10L / 100m ² / day 10L / 15,980m ² / day = 1589L per day 7,945L per working week (5 days)	10L / 100m ² / day 10L / 15,980m ² / day = 1589L per day 7,945L per working week (5 days)	Waste 4 x 1100L bins collected 3 x week Recycling 6 x 1100 bins collected 2 x week
Retail	50L / 100m ² / day 50L / 15,980m ² / day = 362.5L per day 1812.5L per working week (5 days)	50L / 100m ² / day 50L / 725m ² / day= 362.5L per day 1812.5L per working week (5 days)	Waste 2 x 1100L bins collected 3 x week Recycling 2 x 1100 bins collected 2 x week

Storage

There are two different rooms allocated for bin storage on the ground floor accessed adjacent to the loading dock, one for general waste (6 x 1100L bins) and one for recycling (8 x 1100L bins). Waste to be collected by a private waste contractor.

Refer to comment under heading 'Traffic, Parking and Access' regarding service vehicle movements to the loading area.

Aboriginal Heritage

Aboriginal heritage was considered as part of the REF investigations undertaken for the NBI. The assessment covered the entire site of the Concept Development Application. The assessment concluded that there is the potential for Aboriginal objects to occur beneath the surface layer of historical disturbance. An Aboriginal Cultural Heritage Assessment Report (ACHAR) was prepared by Artefact (December 2017) and accompanied an application to the Office of Environment and Heritage for an Aboriginal Heritage Impact Permit (AHIP) under the National Parks and Wildlife Act 1974. AHIP C0003418 was issued by the Office of Environment and Heritage on 22 March 2018 to TfNSW for construction of the NBI.

A review of the AHIP and accompanying documents confirms that the excavation for the commercial building basement specifically was not anticipated or specifically considered, and was limited to "grading and levelling" and excavation for services around a depth of 1.5m (ACHAR). The 'Proposed works' stipulated in the AHIP are indicated as follows:

"The proposal consists of the development of The Store site for the Newcastle Bus Interchange. Works will cover the whole site and will include, but are not limited to:

- Geotechnical investigations, including the excavation of boreholes and pits.*
- Relocation and installation of utility services, including: sewerage; stormwater drainage; water mains; power supply; and communications network.*
- Demolition of existing structures and associated footings, including The Store buildings and the Store carpark.*

- *Ground preparation, including excavation to the required subgrade, grading and levelling.*
- *Construction of the bus interchange, including: pavement, kerbing and hardstand (including the removal of some kerbing); landscaping; turning areas; bus stands and associated shelters; wayfinding and signage; lighting and a drivers' facility."*

While the proposed works description is broad, and the recommendations of the ACHAR are not likely to be altered if basement excavation was proposed, it is considered that this matter should be duly addressed via a variation to AHIP C0003418 or written authorisation from OoE&H that the existing AHIP can apply to the basement excavation works for the commercial building (via a condition of consent).

Construction Impacts

A Site Management Plan prepared by BLOC (dated 24 May 18) which details broad construction methodologies and sequences, staging, site access/traffic control, and operational matters for the wider Store development site (not detailed/specific recommendations for the construction of the commercial building).

With respect to noise associated with ground works it is noted that the Conditions of Approval for the NBI also specify a requirement for the submission of a CEMP; submission of a construction environmental compliance report; preparation of a community liaison plan; implementation of a complaints management program; and implementation of noise and vibration mitigation measures; noise compliance monitoring; air quality monitoring; and submission of a traffic management plan.

Council's Senior Environment Protection Officer (Regulatory Services Unit) has recommended conditions be imposed requiring preparation and implementation of a Construction Environment Management plan to address potential impacts during construction.

Acoustic Impacts

A report entitled *Base Building Acoustic Design* prepared by Acoustic Logic dated August 2018 states that internal noise levels will be designed to comply with *AS/NZS 2107:2016 Acoustics - Recommended design sound levels and reverberation times for building interiors* (Section 2.1.1). The Acoustic Design report lists various glazing and construction recommendations to ensure compliance with the above standard and ensure the building operates with optimal acoustic and vibration performance. Council's Senior Environment Protection Officer (Regulatory Services Unit) reviewed the report and recommended consent conditions be imposed accordingly.

(c) the suitability of the site for development

The report for the Concept DA for the wider site and this assessment report for the commercial site confirms that it is suitable for the proposed 12 storey commercial building, subject to the addressing of recommended conditions of consent.

(d) any submissions made in accordance with this Act or the Regulations

No submissions received.

(e) the public interest

The proposed commercial building will provide one portion of the overall Concept Proposal that will facilitate the achievement of Council's vision for the West End (as contained within the Newcastle Urban Renewal Strategy and NDCP 2012). Specifically, the building will provide increased employment opportunities in a location which supports the development of the NBI and which has immediate access to the inner city rail and bus network. Further, the

development will allow for increased activation and landscaped spaces at the ground plane which will increase public access to the site and the adjacent bus and rail interchange.

It is also recognised that there will be a need to effectively manage impacts through the construction stage of the building in the wider development stages of the site to ensure that surrounding business and residents are not unreasonably affected by traffic movements, on street carparking, noise, vibration or dust.

Overall, the proposed commercial development will have a positive impact within the community as well-connected work environment that optimises amenity for the future workers. Subject to the recommendations within this report, it is considered that the overall economic and social benefits of the proposal are in the public interest.

7. Conclusion

The proposed commercial building is a 12 storey commercial building at 6 Stewart Avenue that is part of a concurrent Concept Plan development application for the wider site (854 Hunter Street, known as “The Store” site). This Concept Plan application is detailed in a separate assessment report, which also comprises residential towers at 30 storeys (to be the tallest buildings within the Newcastle), a multistorey carpark and the Newcastle Bus Interchange (both approved).

The proposed commercial/retail building will provide an active street frontage (Stewart Avenue) as well as pedestrian access and connectivity with the adjoining transport interchanges to the north and west. The proposal is consistent with the Concept Plan for the site.

The ground floor retail space will serve the needs of visitors, passengers and residents; and the commercial floor space will facilitate commercial employment within immediate proximity to a transport hub.

The proposal for the commercial building seeks variations to several DCP controls relating to built form (street wall heights and building setbacks, building depth, in addition to Clause 7.5 of NLEP 2012 relating to ‘building separation’ for which a Clause 4.6 Variation Statement is provided).

This report provides a detailed assessment of the built form, having regard to the above-mentioned non-compliances and associated impacts including to the development potential of the properties to the immediate south (834-850 Hunter Street) which are significant and most affected by the proposal.

Overall, it was concluded that the built form of the proposed commercial building is satisfactory and will provide a suitable scale and appearance in the context of the site and transport interchange/The Store redevelopment site. The building design is considered to provide a human scale through articulation and use of materials.

Furthermore, the Concept Plan for the building envelopes within the wider site and the more detailed design for this commercial building has been developed by a design excellence process. This included consideration of the massing of the commercial building and the relationship to other proposed buildings within the wider site by a Design Review Panel as stipulated by the design excellence process. The Design Review Panel and the Council’s Urban Design Consultative Group support the design, including the built form.

The proposal is generally compliant with other applicable planning controls and instruments, and this report has addressed all relevant statutory considerations.

The building (and the other proposed development within the Concept Plan site) will alter the character of the precinct and associated impacts (heritage, overshadowing etc as detailed in this report). However, on balance, the proposal is acceptable in terms of wider site and planning considerations, traffic and access and parking, safety and security, waste management, contamination/remediation, acid sulfate soils and geotechnical site conditions.

Accordingly, approval of the development application for the commercial building is recommended subject to the recommended conditions of consent provided at Appendix A.

8. Recommendation

That the Joint Regional Planning Panel grant consent to 2018/01107, subject to the conditions contained in Appendix A.

APPENDICES

Appendix A: Recommended conditions of consent.

Appendix B: List of the documents submitted with the application for assessment.

The key plans/documents of the proposed development application are provided at

Appendix C to F, listed below:

Appendix C: Architectural Drawings and material Schedule, by Bates Smart

Appendix D: Landscape Plans Commercial Building, by Bates Smart

Appendix E: Clause 4.6 – Building Separation prepared by KDC

Appendix F: Selected Site Analysis Documents, by Bates Smart

Appendix G: Site Analysis (Impact on adjacent site to south) by Bates Smart