

Response to Public Submissions

Issue Raised		
Overdevelopment	Concern regarding character of locality	The proposal provides diversity to the density, as envisaged by the strategic planning process that introduced the R3 zoning and specific height requirements for the site. Council noted in the Planning Proposal supporting the changes to zoning and height, that the site is considered to satisfy the criteria for a 'Substantial Growth Precinct' under the Local Planning Strategy, being a ten-minute walk of a major commercial centre, being Darby Street. The land is also within the walking catchment to the City Centre.
	Concern regarding R3 Medium Density Zone	That report also considered that the relatively large area and 'bowl like' topography of the land containing the existing NBN television studios lends itself to being able to physically accommodate additional development beyond the standard R3 Medium Density Residential development controls. The Planning Proposal report concluded that the additional development for the site is justified on the unique site attributes. Due to the large elevation drop from Kitchener Parade, the building heights can maintain a three to four-storey 'human scaled' street edge and overall heights sit comfortably below ridge lines.
	Height of proposed development exceeding LEP and DCP	<p>Massing studies were undertaken, in conjunction with a number of meetings with the Council's Urban Design Consultative Group (UDCG), to analyse the optimal design for the development. A number of options were modelled and discussed with the UDCG, testing the relationship of the bulk and scale to adjoining properties, the public realm and Arcadia Park. Further considerations included the shadow and privacy impacts to adjoining properties and within the development. It is noted that the DCP was based on the Planning Proposal scheme, which did not progress to detailed design and testing to the extent that the resulting proposal has undertaken. The resulting proposal achieves the objectives of the Planning Proposal scheme proposed for the site.</p> <p>The design responds to the Planning Proposal intent of incorporating design strategies that mitigate the development's visual impact through strategic placement of buildings in relationship to site's topography, including some increased landscaped setbacks, orientation of buildings to address the short frontage to the street, and stepping height to the corner of the site that is the less visible from surrounding residential development and public spaces.</p> <p>The proposed scale of development is consistent with the character envisaged by the DCP, and will facilitate the urban renewal of a large consolidated site close to the Newcastle City Centre, thereby achieving the objectives of the R3 zone and the broader principles of reducing urban sprawl. The design of the proposal ensures that this objective is achieved without resulting in any unreasonable impacts.</p> <p>In this regard, the desired future character of residential streets has been achieved through the human scaled design to Mosbri Crescent, and general consistency with the built form outcomes of the site specific DCP. Further, as noted in this request, the proposal does not significantly detract from the amenity of any existing nearby development, in relation to matters including views, privacy and overshadowing.</p> <p>The current design does not seek to construct a four-storey building element to Mosbri Crescent, as envisaged by the DCP. Rather, the townhouse style development facing Mosbri Crescent facilitates a human scaled development to this frontage, which respects the existing development while providing a strong streetscape presence. The presentation of the proposed buildings to Kitchener Parade and Arcadia Park are generally consistent with the aims of the DCP, in achieving a higher density residential development on the site with adequate setbacks and appropriate height, responding to the topography of the site.</p>

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		<p>Due to the large elevation drop from Kitchener Parade, the proposed building heights maintain an appropriate street edge and overall heights sit comfortably below ridge lines. The rooftop exceedance will be visibly difficult to detect given the proposed setbacks.</p> <p>The Clause 4.6 variation, in conjunction with the Statement of Environmental Effects (SEE), provides detailed commentary of the impacts of the proposal. Additional view analysis, photo montages and shadow plans are appended to this response, to further demonstrate that the proposal is acceptable.</p>
	Overshadowing	<p>Shadow plan prepared by Marchese Partners (refer to Appendix A of this SEE) illustrate the overshadowing impacts on 21st June. The updated shadow plan provides an analysis of the overall overshadowing impacts of the proposal and also specifically clarifies the extent of overshadowing attributed to the height variations proposed.</p> <p>The following observations are made:</p> <ul style="list-style-type: none"> • Overshadowing impacts to Arcadia Park from the proposal do not occur until 2pm on the 21 June. • Overshadowing impacts to Mosbri Crescent Park do not occur after 10am on the 21 June. • Residential properties adjoining the site do not experience significant overshadowing from the proposal. Adjoining properties are individually discussed below: <ul style="list-style-type: none"> ○ 9 Hillview Crescent – Shadowing not experienced from the development after 9am. Only a very small portion of the rear yard experiences shadowing prior to 9am. ○ 11 Hillview Crescent – Shadowing not experienced from the development after 10am. Only a very small portion of the rear yard experiences shadowing prior to 10am. ○ 13 Hillview Crescent – Shadowing is experienced in the rear backyard area between 8am-10am. A very small area of the rear setback is impacted by shadow from the development from 2pm until 3pm. ○ 15 Hillview Crescent – A small area of the rear setback is impacted by shadow from the development from 2pm until 5pm. ○ 9 Mosbri Crescent – Shadowing not experienced from the development after 11am. ○ 12 Mosbri Crescent – Shadowing not experienced from the development after 10 am. ○ 18 Mosbri Crescent – Shadowing not experienced from the development after 9am. ○ 19 Mosbri Crescent – Shadowing not experienced from the development after 12pm. ○ 41 Kitchener Parade - Shadowing not experienced from the development after 10am. <p>Overshadowing attributed to any height exceedances do not create significant impacts. The height variations associated with roof top plant primarily create impacts to the roof planes and would not create any unreasonable impacts within or external to the site.</p>

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		<p>Minor height variations relating to the plant/lift overruns creates a negligible imperceptible increase in overshadowing. Similarly, the height variation relating to changes in existing site levels below Building C do not result in any perceivable overshadowing impacts and are outside of the typical hours that shadowing is considered on the 21 June, i.e. before 9am and after 3pm.</p> <p>As noted in the updated shadow plans, the additional overshadowing resulting from the variation to the height is a very small percentage of the total overshadowing. In the middle of winter, the proposal would not significantly contribute to the overshadowing of any adjoining land including Arcadia Park, which only experiences partial overshadowing for a few hours in mid winter.</p> <p>Reasonable daylight access is provided to all surrounding developments, the public domain and Arcadia Park. The development will not unreasonably overshadow private property nor cause unreasonable shadowing of the public domain.</p>
	Social Impact - Increase in population due to high density proposed	<p>Consideration of social impacts were made at the Planning Proposal stage, which increased the development opportunity of the site, in acknowledgement of the increasing need for housing stock in the locality and the advantages of inner city sites, rather than relying on urban sprawl. The proposed development responds to the demand generated by the significant increase population growth within the Newcastle Local Government Area (LGA).</p> <p>The area of The Hill and Cooks Hill in the Newcastle LGA according to the 2016 Census of Population and Housing had a total population of 5,564 people (ABS 2016). The local government area had a 2016 population of 155,411, with the population projected to increase by around 41,000 people between 2016 and 2041, from 160,900 to 202,050 people. The number of new households is projected to increase by around 18,250 between 2016 and 2041. This growth is partly driven by population growth, and partly by household composition with an increase in one and two person households. Based on the projected population growth, future household composition, and the number of dwelling vacancies, it is estimated that there will be a demand for 19,450 new dwellings by 2041 (Newcastle Local Housing Strategy, 2021).</p> <p>The proposed development will increase and enhance housing stock within the Newcastle area by providing a range of accommodation types to suit a broad range of people within an inner city accessible site. The apartments will provide housing choice for those with a range of incomes and lifestyle preferences. The provision of additional housing supply will contribute to improving housing affordability.</p> <p>An updated CPTED report is provided with the Amended Application, refer to Appendix K.</p>
	Setbacks	<p>A detailed analysis of the DCP setback requirements is outlined in Section 7.17.1 of the SEE.</p> <p>As noted in Section 7.17.1, there is some variation to the setbacks proposed, in some cases an encroached setback and in other a more generous setback. The approach to setbacks has been to minimise impacts to adjoining residences. However, on balance it is considered that the proposal is generally consistent with the envisaged built form outcomes.</p>

Issue Raised		
		<p>Any variations should be viewed in the context of the overall massing across the site, where the design has sought to minimise impacts to adjoining residential properties. The DCP layout also permitted longer built forms along the boundaries of 41 Kitchener Parade, 9 Mosbri Crescent and the Hillview Crescent properties. The design of Building A allows the majority of the built form of the development to be located away from residential properties. It is considered to be a superior outcome, due to the separation of the road to NEPS and the existing building form of the existing structures within the NEPS. The proposed development has facilitated an increased setback to the adjoining properties at 41 Kitchener Parade and 9 Mosbri Crescent than was envisaged in the DCP, while also meeting DCP objectives of providing a sympathetic built forms that reflects a transition in building and respects the character of adjacent precincts and providing human scale streetscapes.</p> <p>The proposal variations to the street setbacks do not negatively impact on the aims of the DCP, in that it strengthens and reinforce the Kitchener Parade streetscape in a manner generally consistent with the envisaged DCP outcomes, and results in a well-defined landscape.</p>
	Housing diversity	<p>The NSW Department of Planning, Industry and Environment identifies that the intent of providing housing diversity is to facilitates the delivery of a wider range of housing, including small lot housing. Providing housing diversity aims to improve choice and affordability by permitting a wider range of housing types and lot sizes and by ensuring that planning controls do not limit or preference the commercial viability of different housing types.</p> <p>As the proposal provides medium density housing in an inner city suburb, it further strengthens the diversity of housing choices in the locality. The proposal has a range of unit sizes, from 1-3 bedrooms, to ensure choice for future purchasers. The design allows for apartments to accommodate all age groups and degrees of mobility with all apartments in Buildings A, B and C able to meet the Silver Level, Liveable Housing Designs requirements.</p> <p>The SEPP65 notes –</p> <p><i>Principle 8: Housing Diversity and Social Interaction</i></p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i></p> <p>The proposal is consistent with this Principle and represents a high quality architecturally designed development.</p>
	Concerns regarding FSR calculations	<p>The SEE has noted the FSR compliance of the site, irrespective of the inclusion of the surplus car parking spaces.</p>
Non Compliance with subject DCP Section (6.14)	General	<p>The site is the subject of a site specific DCP Chapter 6.14 – 11 Mosbri Crescent The Hill. A detailed response relating to the DCP is contained with the SEE. In addition, an overlay plan has been prepared to provide some further context of the proposal in comparison to the DCP (refer to Section 7.17.1 of SEE).</p>

Issue Raised		
	Human scaled streetscape	The objective of the resulting layout was to ensure that the future development of the site supported the aims of the DCP section. The proposed current design varies from the concept envisaged as part of the DCP, in order to enable a feasible and achievable development, that results in improved amenity to future residents and an improved street appearance.
	Footprint of Building A	<p>Detailed design work has been undertaken for this site, during the detailed architectural design phase undertaken in preparing the current scheme, particularly with respect to height and the desire to achieve a human scaled form to Mosbri Crescent.</p> <p>Massing studies were undertaken, in conjunction with a number of meetings with the Council's Urban Design Consultative Group (UDCG), to analyse the optimal design for the development. A number of options were modelled and discussed with the UDCG, testing the relationship of the bulk and scale to adjoining properties, the public realm and Arcadia Park. Further considerations included the shadow and privacy impacts to adjoining properties and within the development. It is noted that the DCP was based on the Planning Proposal scheme, which did not progress to detailed design and testing to the extent that the resulting proposal has undertaken. The resulting proposal achieves the objectives of the planning scheme in place for the site.</p> <p>No objections to the proposal have been raised by UDCG, who advised – <i>'The Group noted impact of these exceedences was substantially limited to the actual development site, and appear acceptable.'</i> The UDCG also considered that <i>'the proposed development generally satisfies the objectives of the DCP'</i>.</p> <p>The development makes a positive contribution towards the desired built form as follows:</p> <ul style="list-style-type: none"> • The DCP permits the provision of rooftop communal areas. During the detailed design stage, it was considered more appropriate to locate a rooftop communal area on Building B. This location has enabled the rooftop area to be substantially setback from residential buildings on adjoining land, to mitigate visual and acoustic privacy impacts including to NEPS. • The DCP identifies a number of small rooftop communal open spaces, however the approach in the design has been to focus on creating one communal space that provides exceptional amenity for residents. The proposed roof top area is located to minimise impacts on neighbouring properties, and is fully integrated with the rooftop features, rather than being two passive spaces that were less attractive to future residents and would have additional impacts such as potential overlooking and acoustic impacts to NEPS, 41 Kitchener Parade and 9 Mosbri Crescent. The design also facilitates disability access to the rooftop area via a lift access. It is further noted that between design iterations, and with the extension of lobby A/B and B/C, that the rooftops of these areas have become expanded and useable as lower rooftop communal areas, providing additional communal open space options to residents without creating privacy impacts to surrounding properties. • The approach has enabled increased landscaping design elements on the ground. The proposed rooftop area has also been located to address the recommendations of John Carr Heritage Design, which recommended removing non essential roof top structures and gardens/recreational areas from Building A (both east and west blocks).

Issue Raised	
	<ul style="list-style-type: none"> • The area fronting Mosbri Crescent and the southern boundary has a maximum height of 12m (measured above ground level), which could accommodate up to four-storeys. The current scheme proposes townhouse style development in this area, to provide a more human scaled built form to this frontage. The proposal provides a more intimate streetscape presentation, which given the road alignment, is a superior outcome for the site. • The indicative building layout in the DCP identified a large terrace style building to the southern boundary, which adjoins residential properties that front Hillview Crescent. This outcome would have resulted in a longer building form facing these residents, together with windows and private open space areas facing the common boundary. The proposal has achieved solar access and private open space areas that do not face the adjoining dwellings on Hillview Crescent. • The proposal has enabled one driveway access point, which will have traffic benefits to Mosbri Crescent. Further, this has reduced the amount of internal circulation required, facilitating a higher landscaping outcome. • The Amended Application has facilitated an increased setback to the adjoining properties at 41 Kitchener Parade and 9 Mosbri Crescent than was envisaged in the DCP. • It should be noted that the proposal is compliant with the maximum FSR controls, and that if the bulk and scale was ‘flattened’ across the site, this would impact on the design of the human scaled element framing Mosbri Crescent, as well as resulting in less generous landscaping. • While the proposal seeks to vary a limited number of DCP provisions, for example setbacks, building location and design of communal rooftop areas, the design, layout, scale and building massing demonstrably meets the aims and objectives of the DCP. The DCP was created to reflect an indicative scheme prepared as part of the Planning Proposal for the site. It should be acknowledged that concept schemes, as was prepared to support the Planning Proposal, are not worked through to detailed design and in this case an alternative solution is considered more appropriate. The extent of the variations to LEP 2012 and the DCP as acceptable as evidenced by the VIA at Appendix I and updated shadow plan at Appendix A. • The proposed height variation is discussed in further detail in the Clause 4.6 variation attached at Appendix F. <p>The proposed development consists of a high quality, architecturally designed building that makes a positive contribution to the locality. Whilst limited elements do not strictly adhere to the building height standards for the site, the design response is suitable for the site and achieves a landmark development at a unique location.</p>
Architectural Design	<p>Marchese Partners are a highly regarded architectural firm, who achieve superior quality, architecturally designed buildings that makes a positive contribution to their locality.</p> <p>The proposal achieves the requirements of the Apartment Design Guide. No objections to the proposal have been raised by Council’s UDCG, to which the current scheme has been presented on a number of occasions. The UDCG concluded that ‘<i>The proposed development generally satisfies the objectives of the DCP, and would potentially provide an attractive residential environment</i>’.</p>

Issue Raised		
		<p>Subsequent to the public notification of the proposal, the application was further considered by Council's UDCG, who made recommendations to the design, which have been implemented in the current proposal.</p> <p>It is therefore considered that the development exhibits design excellence.</p>
Noise	General	<p>A Noise Assessment prepared by Rapt Consulting (refer Appendix GG of this SEE), was prepared to consider any impacts associated with the proposed rooftop mechanical plant. The report concludes that compliance with all noise goals is expected for the development on neighbouring residences. Construction impacts are discussed at Section 9.17 of this SEE.</p> <p>The future use of the land for residential dwellings is within the expectations of the zoning of the land, and any impacts in this regard would be consistent with the character of the surrounding area. Standard conditions of consent regarding compliance with the relevant NSW legislation and guidelines in relation to the plant areas could be imposed by Council if required.</p> <p>The proposed residences have been designed to ensure acoustic privacy within the development, as well as to adjoining properties, in accordance with the SEPP65 Apartment Design Guidelines. The proposal achieves adequate visual and acoustic privacy and, in a broader context, for the surrounding properties. The orientation of buildings and the use of articulated building design and landscaping have resulted in a building that will not have a detrimental impact on the privacy of neighbouring properties; and will afford a high level of amenity for future occupants.</p> <p>During the detailed design stage, it was considered more appropriate to locate a rooftop communal area on Building B. This location has enabled the rooftop area to be substantially setback from residential buildings on adjoining land, to mitigate visual and acoustic privacy impacts including to NEPS.</p> <p>Arcadia Park and The Obelisk are public spaces and privacy is not a valid expectation in this regard. The auditory surveillance facilitated by the proposal may increase public safety to park users.</p>
	Quiet character of area	
	Noise Impact on Arcadia Park and Obelisk	
Traffic and Parking	Increased traffic movements and congestion	<p>A detailed consideration of the parking and traffic impacts is included in the Traffic and Parking Assessment and Addendum Traffic Report prepared by Intersect Traffic at Appendix V and Appendix W of the SEE.</p> <p>The reports concludes that the road network has sufficient capacity to cater for the development, and that the proposal will not adversely impact on the operation of any local and state road network intersections near the site.</p> <p>No driveway access points to the site are proposed from Kitchener Parade in the vicinity of the NEPS. The pedestrian path through the site will enable more direct pedestrian connections from the suburb to the school and will have the benefit of a new pedestrian crossing on Kitchener Parade.</p> <p>The Addendum Traffic Report notes that a service bay option has been added to the development to facilitate off-street parking of furniture removalist vans and increasing parcel deliveries. This service bay is located to the west of the building within an exist drainage easement running down the boundary of the site. This bay allows the design vehicle (HRV) to reverse into the bay so parcels and furniture can be unloaded to a storage area within the basement for further distribution to residents via the residents themselves and / or the building manager. The vehicles can then exit the site in a forward direction.</p>
	Concerns regarding TIA	

Issue Raised		
	Access for waste collection vehicles	It is emphasised that the proposal is intended to be serviced by a private contractor, however additional clarity was sought from Council during the assessment process, as to how the proposal would be serviced should Council services be engaged in the future. The additional requested content has been included in the WMP, in consultation with the Council's Waste Services Team (refer Appendix G).
	Parking	The proposal readily complies with the DCP requirements regarding car parking provision. The Amended Application also nominates the re-establishment of on street carparking spaces on Mosbri Crescent, which were previously not available when NBN occupied the site.
	Safety impacts on school children in the area	The proposed location and design of the driveway access ensures adequate sightlines for vehicles. The proposed pedestrian link between Mosbri Crescent and Kitchener Parade, seeks to increase pedestrian permeability through the block to the adjoining public school to the north, the Newcastle City Centre and Arcadia Park. No driveway access points to the site are proposed from Kitchener Parade in the vicinity of the NEPS. The pedestrian path through the site will enable more direct pedestrian connections from the suburb to the school and will have the benefit of a new pedestrian crossing on Kitchener Parade.
	Noise and light from vehicles of future residents	The location of the proposed driveway ensures that headlight glare will not result to any adjoining residential property, and noise impacts are managed given the basement carparking proposed.
	Fire Engine Access	Consideration of access is made in the Bushfire Report at Appendix BB.
Privacy	Overlooking Newcastle East Public School	Newcastle East Public School is located on the opposite side of Kitchener Parade. The interface of the school to the development site is separated by a public road, and in this regard, no further privacy impacts will result. A minimum 6 metre setback is provided to Kitchener Parade, which along with the width of the road reserve, provides adequate separation for privacy.
	Communal roof top leisure area	The proposal, being for residential use, does not create a land use conflict with the NEPS. It is noted that the height of the new 'Homebase' building currently being constructed on the school site is approved at RL57.05, and that the highest part of the overall development (Building A) is proposed to have a main roof line of 56.8, with plant at 58.3 and screening at 58.4. Accordingly, the proposed bulk and scale will be generally in context with the school.
	ADG separation requirements	The DCP identifies a number of small rooftop communal open spaces, however the approach in the subject application has been to focus on creating one communal space that provides exceptional amenity for future residents. The proposed roof top area is located to minimise impacts on neighbouring properties, and is fully integrated with the rooftop features, rather than being two passive spaces that were less attractive to future residents and would have additional impacts such as potential overlooking and acoustic impacts to NEPS, 41 Kitchener Parade and 9 Mosbri Crescent.
	Arcadia Park	

Issue Raised		
		<p>Overlooking from the rooftop pool and recreation area is unlikely to create any unreasonable impacts to users of Arcadia Park. The setback is over 10 metres from the park boundary, and existing vegetation within Arcadia Park would provide, at best, filtered views as demonstrated in the VIA at Appendix I. Notwithstanding, Arcadia Park is a public space and privacy is not a valid expectation in this regard. The auditory surveillance facilitated by the proposal may increase public safety to park users.</p> <p>The proposal is compliant with the Apartment Design Guide.</p>
Visual Impact	Character of existing locality	The proposed development is consistent with the desired character and built form of the wider Newcastle locality, bringing new housing opportunities that are well placed, highly accessible and functional.
	Preservation of View lines and ridge lines, views	<p>Having regard to the relevant principles relating to character, it is acknowledged that buildings can exist together in harmony without having the same density, scale or appearance. The townhouse style development facing Mosbri Crescent will achieve a low scale residential character to this frontage. The presentation of the proposed buildings to Kitchener Parade and Arcadia Park are generally consistent with the aims of the DCP, in achieving a higher density residential development on the site with adequate setbacks and appropriate height, responding to the topography of the site. The extensive landscaping proposed will also further enhance the proposal's relationship with the surrounding area.</p>
	Concern regarding misrepresentation of visual impacts from various locations	<p>Additional photo montages have been prepared for the proposal, to further demonstrate the appropriateness of the proposal's relationship to the surrounding context (refer Appendix I of the SEE for the VIA).</p> <p>As noted in the VIA, The Obelisk offers 360 degree views, with the most significant views being towards King Edward Park, the ocean and harbour. The site forms a small part of the visual catchment of a western cityscape view. The western cityscape view is not considered to be iconic compared to the views towards the ocean and harbour. The continuing evolution of the cityscape through the construction of additional buildings is inevitable and will happen gradually as new development takes place. Further context of the evolving nature of the city scape is demonstrated in Figure 77 of the SEE (refer Appendix I for full resolution image).</p> <p>The proposed development has no impact to the uninterrupted views in all other directions, which enable viewing of Nobbys Headland, the Harbour, King Edward Park and the Pacific Ocean.</p> <p>The DCP controls were prepared in conjunction with the amendments to height now contained in the NLEP 2012, which the proposed development is largely compliant with. Particular reference is made to the extent of the building proposed higher than the height control within the NLEP, indicated by the blue line Figure 77 and 79 of the SEE (refer Appendix I for full resolution image). These portions of the building are not considered to be significant when viewed from the Obelisk, and would not have a significant visual impact.</p> <p>It is also noted that the pergola proposed on Building B are an open structure and is proposed to have a plantings over the structure. Accordingly, this element of the building will be visually mitigated.</p> <p>When the proposed development is viewed in the context of buildings forming a vast cityscape, it has minimal impact when viewed from the Obelisk. Specifically, no key features of the city or the view are obscured by the proposed development.</p> <p>Heritage expert, John Carr, has formed the view that there is no impact on the heritage significance of the Obelisk, which has significance primarily attributed to being a navigational device.</p>

Issue Raised		
		<p>The photomontages have been prepared with the benefit of survey data, and are in accordance with the Court photo montage guidelines.</p> <p>In regard to views from the city to The Obelisk, the SEE includes additional photos identifying that the proposal is not visible to other key public domain sites around the city, (refer to Figure 115 of the SEE for the photo locations). The lack of visibility is the result of the 'bowl like' typography of the area. It is noted that the applicable heritage listings do not identify significant view corridors to west, nor does the Council's LEP or DCP. Notwithstanding, the images in the SEE (photograph 17-30) represent civic locations across the city, and as depicted the proposal does not result in impacts to the visibility of The Obelisk.</p>
	Reflectivity	No reflectivity issues are anticipated as a result of the development, which implements typical residential construction.
Access	Concern regarding lack of public access from Mosbri Crescent to Kitchener Parade	<p>The pedestrian walkway has been designed to provide clear, legible, and direct access between Mosbri Crescent and Kitchener Parade. This walkway will interface with a proposed pedestrian crossing on Kitchener Parade, which will improve pedestrian safety and circulation in the broader precinct. The proposal will improve pedestrian permeability through the block to the adjoining public school to the north, the Newcastle City Centre and Arcadia Park.</p> <p>The public accessible pathway / landscaped area is free of any barriers or gates to enable freedom of movement for the public and residents of the development between Mosbri Crescent and Kitchener Parade.</p>
	Concern for future residents and access from the proposed development to CBD	The topography of the surrounding road network is noted, notwithstanding, the proposed pedestrian link between Mosbri Crescent and Kitchener Parade, along with the proposed pedestrian crossing will improve pedestrian permeability through the block to the adjoining public school to the north, the Newcastle City Centre and Arcadia Park. A full analysis of the surrounding road network is contained in the Traffic Report at Appendix V of the SEE.
Heritage	Adjacent to conservation zone and heritage listed items (Obelisk and Arcadia Park)	<p>Heritage expert, John Carr, has formed the view that there is no impact on the heritage significance of the Obelisk, which has significance primarily attributed to being a navigational device.</p> <p>Additional photo montages have been prepared for the proposal, to further demonstrate the appropriateness of the proposal's relationship to the surrounding context (refer Section 9.2.2 and Appendix I of the SEE for the VIA).</p>
	Heritage views	<p>As noted in the VIA, The Obelisk offers 360 degree views, with the most significant views being towards King Edward Park, the ocean and harbour. The site forms a small part of the visual catchment of a western cityscape view. The western cityscape view is not considered to be iconic compared to the views towards the ocean and harbour. The continuing evolution of the cityscape through the construction of additional buildings is inevitable and will happen gradually as new development takes place. Further context of the evolving nature of the city scape is demonstrated in Figure 77 of the SEE (refer Appendix I for full resolution image).</p>
	Approval from Heritage NSW	

Issue Raised	
	<p>The DCP controls were prepared in conjunction with the amendments to height now contained in the NLEP 2012, which the proposed development is largely compliant with. Particular reference is made to the extent of the building proposed higher than the height control within the NLEP, indicated by the blue line Figure 77 and 79 of the SEE (refer Appendix I for full resolution image). These portions of the building are not considered to be significant when viewed from the Obelisk, and would not have a significant visual impact.</p> <p>In relation to the view impacts to the Obelisk, the base of the Obelisk is RL69, with the tree line visible at Wolfe Street having a range of levels (predominantly RL63.5-64.5), with the road (Wolfe Street) being RL56. Noting that the main roof line of Building A is RL56.80, with plant proposed to RL58.3 and screen at RL58.4, the proposal will be substantially screened by the existing vegetation in Arcadia Park, as indicated in the VIA images at Appendix I.</p> <p>Concerns were raised in previous submissions regarding the height of the NBN aerial, and as part of this response, additional levels of the aerals are provided at Appendix M. As noted, the aerial is at RL64.8, and accordingly, the main roof line of Building A is 8 metres lower than this height, which gives further context to the impacts of the proposal.</p> <p>A Statement of Heritage Impact (refer Appendix CC) has been submitted with the DA, and an Addendum SOHI has also been prepared and addresses the state listing of the Newcastle Recreation Reserve (refer Appendix DD).</p> <p>The Addendum SOHI concludes:</p> <p><i>'In general terms the development is substantially screened from heritage conservation areas and individual items by the existing built and natural environment. This has been confirmed by the Marchese Partners View Analysis Report.</i></p> <p><i>An assessment of the natural heritage significance of Arcadia Park is based on the information prepared for the City of Newcastle by Coastal Ecology in their Review of Environmental Factors for the Proposed Restoration of Arcadia Park 2018.</i></p> <p><i>It should be noted that under the definition of The Burra Charter 2013, restoration means returning a place to a known earlier state by removing accretions or by reassembling existing elements without introducing new material. In the case of Arcadia Park the known earlier state of the area was native grassland and heath. The introduced Littoral rainforest while existing in this region may not have existed in this location.</i></p> <p><i>It is contended that the buildings will blend into the backdrop of the city expanse as it is well below the line of the horizon when viewed from the Obelisk. The views west from the Obelisk are general city wide views and were not the reason behind the construction of the Obelisk which was for navigational reasons when ships were entering the harbour.'</i></p> <p>Acknowledging the State Heritage Listing of the adjoining land (Arcadia Park), the amended application is now identified as 'integrated development' in accordance with the Heritage Act 1977, as noted in Section 7.5 of the SEE. Accordingly, the proposal is to be required to Heritage NSW in accordance with the legislative requirements.</p>
Aboriginal Heritage	<p>An Aboriginal Due Diligence Assessment is attached at Appendix Z of the SEE, prepared in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010). During the site inspection, two pieces of flaked tuff were observed, with these objects considered to form part of the newly identified NBN_AS1 Aboriginal site. Both objects that comprise the NBN_AS1 were considered to be heavily weathered, likely due to being exposed on the surface through topsoil erosion.</p>

Issue Raised	
	<p>Subsequently an Aboriginal Cultural Heritage Assessment (ACHA) has been prepared (refer Appendix AA). Discussions with Aboriginal parties have been held in accordance with the Code Guidelines in relation to approved activities at Mosbri Crescent began in 2019, following the initial inspection of the site for the preparation of an Aboriginal Due Diligence Assessment for the proposed residential development of 11-17 Mosbri Crescent, the current project area. A letter providing information regarding the project and incorporating a draft methodology for the assessment was provided to all registered Aboriginal parties on 14 July 2021. It was requested that all Aboriginal parties provide comment on the proposed assessment methodology. One comment was received on the draft methodology, which was supportive of the proposed approach.</p> <p>The survey of the project area was conducted on 23 August 2021 with the registered Aboriginal party representatives listed in the ACHA. Overall, the project area is considered to have low archaeological potential for additional Aboriginal objects or sites to be identified in either surface or subsurface contexts. This is due to the substantial modifications to the landscape and due to the significant earthworks undertaken in association with the construction of the NBN building. However, as previously identified during the due diligence inspection for the project area, SU1 contains two surface artefacts in the form of the NBN_AS1 site and impacts to this site by the proposed development must be considered.</p> <p>The two objects were originally found upon an exposed area and during the recent survey of the site, it was found that the site has not undergone any further modification or disturbance and has maintained a similar level of vegetation. Both artefacts were reidentified upon this same landform and in close proximity to their originally recorded position. The artefacts are located within the footprint of the proposed works and will be impacted as part of the project. Given the heavily eroded nature of the project area and the depth of topsoil observed in association within the NBN_AS1 site, the site is considered to have no subsurface archaeological potential.</p> <p>Due to the partially disturbed nature of the landscape and landforms within the project area and the presence of a low-density artefacts scatter, the project area predominately rates as low when assessed against the criteria identified in the ACHA. It is noted that the wider landscape contains Aboriginal objects or sites which hold significance to Aboriginal people, however the heavily eroded and modified nature of the project area did not reflect areas similar to those described in other assessments. It is likely that the project area was used transiently by Aboriginal people in order to access these more preferable locations surrounding the project area, particularly those to the north of the project area associated with the foreshore dunes along the Hunter River. However, this transient nature of use this use does not hold scientific or archaeological significance.</p> <p>A copy of the draft ACHA was provided to the registered Aboriginal parties on 13 September 2021. It was requested that all Aboriginal parties provide comment on the draft ACHA, and in particular, comment on any impacts to Aboriginal cultural heritage through the proposed works. Details of the communication regarding the draft methodology and draft ACHA are provided in full in the ACHA. The comments and recommendations received as part of the communications have been noted in the updated ACHA.</p> <p>The ACHA includes recommendations, which include:</p> <ul style="list-style-type: none"> • A 'no-go zone' should be established around the NBN_AS1 (38-4-1205) prior to the commencement of works on the site. • Ensure that employees and contractors are aware that it is an offence under Section 86 of the NPW Act to harm or desecrate an Aboriginal object unless that harm or desecration is the subject of an AHIP. • Apply to Heritage NSW for an AHIP in accordance with Section 90 of the NPW Act. The AHIP should cover the entirety of the project area and allow for the surface collection and resulting harm to the recorded Aboriginal site NBN_AS1 (AHIMS # 38-4-2100).

Issue Raised		
		The ACHA process is being progressed in parallel to the development application and the proponent will make a later application for an AHIP. Accordingly, an integrated development approval is not being sought as part of the current development application in accordance with the NPW Act.
Sustainability	Solar access of proposed units	The proposal is compliant with the Apartment Design Guide. It is noted that the UDCG have previously acknowledged that the proposed design has achieved better solar access than the layout identified within the site specific DCP.
	Aspect of proposed units	A BASIX Certificate has been obtained for the proposed development; this is appended to this SEE at Appendix H. All relevant BASIX commitments are indicated on the architectural drawings.
	General	<p>The proposed development aims to promote a high standard of environmental performance incorporating the use of ecologically sustainable development principles including:</p> <ul style="list-style-type: none"> • Orientation of apartments to maximise access to natural light, natural cross ventilation and aspect; • Native and drought tolerant vegetation will form part of the soft and hard landscaping plan. Landscape spaces laid out for maximum solar access, natural ventilation, water and planting management. Vegetation is designed to modify the external wind direction to enhance ventilation and cool incoming air; • Use of solar screening devices as required to minimise use of high energy consumption cooling systems; • Reuse of water runoff stored in the detention tank for toilet flushing and laundries; and • Low energy fixtures and fittings implemented in the building.
Landscaping		The proposed landscaping scheme includes landscaped areas distributed throughout the site within both communal and private open spaces. Deep soil areas are located around the northern, eastern, and southern boundaries of the site. An appropriate amount of large and medium sized trees based on the landscaped area has been proposed. The proposed landscaping provides a minimum of 25% landscaped area with deep soil zones exceeding 10% of the site area. The proposed landscaping has been designed in respect to the scale and context of the proposed development, surrounding development, and the streetscape.
Questions regarding due process	Similarity to initial proposal	The amendments made in submission to the public submissions, in addition to concerns raised by Council, are described in Section 10 of the SEE.
	Rezoning process	The proposal is generally consistent with the design outcomes identified in the Planning Proposal for the site, which was endorsed through the legislative process for rezonings.
Biodiversity	Tree removal	The proposal includes the removal of existing trees and landscaping, as detailed in the Arborist Report attached at Appendix X.

Issue Raised		
	Climate change	Tree removal is proposed to be compensated in accordance with Council requirements (refer to Arborist Letter at Appendix Y). No vegetation is being removed in Arcadia Park.
Local Planning Strategy		The proposal is generally consistent with the design outcomes identified in the Planning Proposal for the site, which was endorsed through the legislative process for rezonings, including consideration of the strategic policies in place.
Impact on local infrastructure and amenities	Newcastle East Public School	Significant growth in the inner city areas of Newcastle has been predicted and encouraged in recent years through the various regional and local planning strategies.
	Stormwater	Detailed consideration of stormwater management has been undertaken in relation to the proposed development (refer Appendix D for stormwater details). An existing stormwater pipe occurs through the site, and detailed design work has been undertaken in accordance with Council requirements, to ensure that stormwater management is acceptable.
	General	Provision of services can be managed by conditions of consent. Any upgrades will be undertaken in accordance with the relevant provider requirements.
Construction concerns	Noise	A Construction Management Plan (CMP) has been prepared (refer SEE Appendix KK), to ensure that any impacts from the mine grouting and construction phase is managed to mitigate impacts to adjoining properties. The CMP has adopted recommendations from the various technical studies, including the Acoustic and Vibration Assessment and Air quality assessment (refer SEE Appendix HH and II).
	Health impacts from dust and fumes from construction vehicles	
	Light pollution	
	Construction Management Plan	
Subsidence/Geotechnical Impact	Proposed method	The Mine Grouting Works are described in the Mine Subsidence Grouting Remediation Strategy Summary Report prepared by Coffey dated 9 November 2021, refer to Appendix R, and further details are at Appendix EE - Mines Subsidence Assessment.
	Structural integrity	The environmental impacts of the Mine Grouting Works are considered in the SEE, and the following supporting documents: <ul style="list-style-type: none"> Appendix O – Geotechnical Assessment

Issue Raised		
	SANSW	<ul style="list-style-type: none"> • Appendix EE – Mine Subsidence Report • Appendix G – Waste Management Plan • Appendix R – Mine Subsidence Grouting Remediation Strategy • Appendix W – Addendum Traffic Report • Appendix FF – Ground water Report • Appendix HH – Acoustic and Vibration Assessment (construction) • Appendix II – Air quality assessment • Appendix JJ – Methane gas letter • Appendix KK – Construction Management Plan
Impact of Grouting	Owner occupiers/damage to property	It is anticipated that conditions of consent would be imposed requiring dilapidation reports. The applicant has no objection to this standard requirement.
	Vibration	Consideration of the potential construction noise and vibration impacts is made in the construction noise and vibration impact assessment prepared by Rapt Consulting (SEE Appendix HH). Recommendations from the construction noise and vibration impact assessment are incorporated into the CMP at Appendix KK of this SEE.
	Groundwater impacts	<p>A Groundwater Assessment has been prepared by Coffey (refer Appendix FF of the SEE). The report presents an assessment of potential groundwater impacts arising from the proposed development, particularly noting the impacts on the land (and associated vegetation) located to the east of the proposed development. The report concludes that there is a low probability that the influence of the proposed development on groundwater in the upper ground profile in Arcadia Park will extend beyond 2 m from the eastern boundary of the site over the elevated areas (above 38 m AHD) and that within that zone, impacts would be limited to minor changes. For the gully areas, there is a low probability that the influence of the proposed development on groundwater conditions would extend beyond 2 m from the boundary. Coffey consider there would be a low likelihood of impacts on groundwater conditions below the base of the residual soil horizon.</p> <p>The assessment undertaken by Cumberland Ecology (refer Appendix T of this SEE) advised that <i>“The proposed excavation adjacent to Arcadia Park is to be shallower than existing groundwater in the locality and so will not impact upon groundwater resources. In any case, there is no evidence that the vegetation in the park is groundwater dependant. For this reason, no significant impacts are expected to the vegetation in the park as a result of the excavation works proposed on the subject land”</i>.</p>

Issue Raised		
Plan of Management		<p>The public submissions raise questions in relation plans of management for Arcadia Park, including concerns relating to the proposed easement and overshadowing to the park. It is noted that Plans of Management are a matter for Council.</p> <p>The proposed easement relates to an existing Council pipe that runs down hill from Arcadia Park through the development site.</p> <p>The Amended Application includes analysis of the overshadowing impacts to the park, and demonstrate that there is no unreasonable impact in relation to overshadowing, particularly to the extent of any non compliance to the height limit.</p> <p>No clearing is required within Arcadia Park to facilitate the required APZ.</p>
Bushfire		<p>There appears to be some confusion in the submissions regarding the asset protection zones (APZs) nominated for the development. By way of clarification:</p> <ul style="list-style-type: none"> The applicants Bushfire Assessment Report (BAR) prepared Bushfire Planning Australia (BPA), as part of the literature review and analysis of the context of the site, acknowledged the previous work undertaken by Coast Ecology on behalf of the City of Newcastle (CoN). This work was undertaken by the CoN as a separate process. Despite acknowledging the recommendations of the report prepared for CoN by Coast Ecology, the recommendations of the BPA Bushfire Assessment Report have not relied on any bushfire mitigation measures occurring in Arcadia Park, i.e. it has assumed that Arcadia Park will remain in unmanaged conditions. <p>All recommended bushfire mitigation measures are contained wholly within the development site.</p> <p>The NSW Rural Fire Service (RFS) previously issued a Bush Fire Safety Authority (BFSA) on 25 June 2019 and 2 December 2021 for the proposed assessment, subject to a series of conditions. It is understood that Council, will refer the amended application to NSWRFSA for an updated BFSA.</p>
Community Health	Impact of high density housing on the spread of COVID-19	The proposal achieves the requirements of the Apartment Design Guide, which among other considerations ensures that appropriate space and ventilation are afforded to occupants.
Legislative obligations	Design and Building Practitioners Act	All legislative requirements will be met.
UDCG comments		The proposal has been considered by the UDRP (formerly Urban Design Consultative Group (UDCG)) on a number of occasions.

Issue Raised		
		<p>The design has undertaken two pre-lodgement UDCG, that involved amending the design to achieve a successful massing of development for the site. Following the UDCG meetings, one level from Building A was deleted, which allowed a raise to the lowest level, to be more in line the ground levels of Building B the townhouses. The current scheme is also based on more accurate information from structure and services which have both varied the proposed floor-to-floor heights, resulting in the eastern portion of Building A being 700mm over the height control, and west portion being 200mm over.</p> <p>Following the lodgement of the DA, the DA was referred to the relevant design review panel (the Urban Design Review Panel (UDRP), previously known as Urban Design Consultative Group (UDCG)) for advice concerning the design quality of the development on 21 February 2019 and 30 June 2021 (refer to Sections 7.9 of the SEE for response to comments made and SEE Appendix MM for meeting minutes).</p> <p>As noted above the design has continually evolved through numerous meetings with the Council's UDRP, who are generally supportive of the proposal. It is noted that a number of the variations to the DCP concept were a direct result of the discussions and guidance provided by the UDRP, with the result of providing a superior outcome.</p> <p>The most recent meeting held in June 2021 concluded:</p> <p><i>The modified development resolves most of the issues previously of concern to the Panel. Providing the remaining issues identified under the headings above are satisfactorily addressed, the proposal is supported.</i></p> <p>The design amendments requested in this final meeting have been incorporated into the architectural plans, and are described in further detail in Table 4 of the SEE.</p>
Other developments – better suited locations		Given the high-quality design outcome for the site and its positive contribution to the locality, the consistency with Newcastle LEP 2012, Local Strategy and applicable State Planning Policies, and the absence of any significant adverse environmental impacts, the proposal is considered to be appropriate to the site and the locality.
Dilapidation reports		It is anticipated that conditions of consent would be imposed requiring dilapidation reports. The applicant has no objection to this standard requirement.
VPA	Public Benefit	<p>A draft Voluntary Planning Agreement (VPA) was originally lodged with the DA, however no further negotiations have taken place. Council have indicated that they will not be pursuing a VPA. It is anticipated that Council will impose conditions of consent in relation to contributions.</p> <p>There is no contributions plan or requirement applying to the proposal with regard to affordable housing.</p>
Public notification		It is understood that Council have notified the proposal in accordance with the relevant requirements.