

## COUNCIL ASSESSMENT REPORT

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSHCC - 102 – DA2021/01459
<b>PROPOSAL</b>	Partial demolition of existing buildings, erection of mixed-use development comprising commercial premises (retail premises & business premises), two residential towers (30 storey & 24 storey) containing 182 dwellings and 238 associated car parking spaces.
<b>ADDRESS</b>	<ul style="list-style-type: none"> <li>• Lot 2 DP 126</li> <li>• Lot 1 DP 342675</li> <li>• Lot 1 DP 395367</li> <li>• Lot 2 DP 445736</li> <li>• Lot 1 DP 456088</li> <li>• Lot 1 &amp; 2 DP 1091173</li> </ul> <p>924 Hunter Street Newcastle West</p>
<b>APPLICANT</b>	Thirdi Dairy Farmers Pty Ltd
<b>OWNER</b>	McCloy Newcastle West Pty Limited
<b>DA LODGEMENT DATE</b>	5 November 2021
<b>APPLICATION TYPE (DA, CONCEPT DA, CROWN DA, INTEGRATED, DESIGNATED)</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 2, Schedule 6 of the Planning Systems SEPP: <i>General development over \$30 million</i>
<b>CIV</b>	\$100,125,230.00 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	None
<b>KEY SEPP/LEP</b>	<p><b>Environmental planning instruments: s4.15(1)(a)(i)</b></p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land (previously under SEPP No. 55 – Remediation of Land)</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 Coastal Management (previously SEPP (Coastal Management) SEPP 2018)</li> </ul>

	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Planning Systems) 2021 (previously under SEPP (State and Regional Development) 2011)</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously under SEPP (Infrastructure) 2007)</li> <li>• State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building</li> <li>• State Environmental Planning Policy (Industry and Employment) 2021</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously under SEPP (Vegetation in Non-Rural Areas) 2017)</li> <li>• Draft Remediation of Land SEPP</li> <li>• Newcastle Local Environmental Plan 2012 (NLEP 2012)</li> </ul> <p><b>Development Control Plan: 4.15 (1)(a)(iii)</b></p> <ul style="list-style-type: none"> <li>• Newcastle Development Control Plan 2012 (NDCP 2012)</li> <li>• City of Newcastle's Community Participation Plan 2019</li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	One (Notification period 17 November to 1 December 2021)
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Amended Architectural Plan by CKDS Proj No 21014 May 2022</li> <li>• Acoustic Report by Muller Acoustic Consulting October 2021</li> <li>• Acid Sulfate Soil Management Plan by Douglas Partners (May 2022)</li> <li>• Basix Report by Credwell October 2021</li> <li>• Car Parking Report by Intersect Traffic 25 March 2022</li> <li>• Amended Civil Engineering Design by Northrop May 2022</li> <li>• Contamination Assessment &amp; Remedial Action Plan (RAP) by Douglas Partners October 2021 &amp; April 2022</li> <li>• Cost Report by Napier &amp; Blakely October 2021</li> <li>• Design Compliance Report (SEPP 65) by CKDS October 2021</li> <li>• Flood Impact Assessment by Northrop May 2022</li> <li>• Heritage Report by Heritas October 2021 &amp; March 2022</li> <li>• Amended Landscape Plan &amp; Report by Xeriscapes May 2022</li> </ul>

	<ul style="list-style-type: none"> <li>• Lift Traffic Analysis &amp; Report by Kone 1 March 2022</li> <li>• Statement of Environmental Effects by ADW Johnson October 2021</li> <li>• Social Impact Statement by Aigis Group 30 March 2022</li> <li>• Traffic Report by Intersect Traffic October 2021</li> <li>• Waste Management Plan by Waste Audit March 2022</li> <li>• Wind Assessment by ARUP October 2021</li> </ul>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	No Special Infrastructure Contributions areas apply to the City of Newcastle.
<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes - after the submission of the report to the Panel
<b>SCHEDULED MEETING DATE</b>	27 June 2022
<b>PREPARED BY</b>	Damian Jaeger Principal Development Officer (Planning)
<b>DATE OF REPORT</b>	20 June 2022

## EXECUTIVE SUMMARY

The submitted proposal (DA2021/01459) seeks consent for partial demolition of existing buildings, erection of mixed-use development comprising commercial premises (retail premises & business premises), two residential towers (30 storey & 24 storey) containing 182 dwellings and 238 associated car parking spaces.

The site consists of six lots known as 924 Hunter Street Newcastle West. The development site is irregular in shape and has three street frontages, Hunter, Railway and Tighe Streets respectively.

The site is located within the B3 Commercial Core pursuant to Clause 2.2 of the NLEP 2012. The proposal is permitted with consent within the B3 zone under Clause 2.3 as combination of *commercial premises* and *shop top housing*.

The assessment within the report below demonstrates that the principle planning controls detailed below have been satisfactorily addressed by the proposal:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Newcastle Local Environmental Plan 2012 (NLEP 2012)
- Newcastle Development Control Plan 2012 (NDCP 2012)

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposed development was considered by Transport for NSW (TfNSW) under the provisions of Clause 2.121 of State Environmental Planning Policy (Transport and Infrastructure) 2021 as 'traffic generating development' and they raised no objections.

The submitted development was also considered by CN's Urban Design Review Panel (URDP) under the provisions of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development. The proposal is considered to be acceptable having regard to SEPP 65 and the associated Apartment Design Guide (ADG).

A number of key prerequisites are required to be satisfied prior to the granting of consent. These are as follows and are considered to have been satisfactorily addressed by the proposal:

- SEPP (Planning Systems) 2021 Section 2.19(1) declares the proposal as regionally significant development pursuant to Clause 2 of Schedule 6
- SEPP (Resilience & Hazards) Section 4.6 – Land contamination
- NLEP 2012 Clause 6.1 – Acid Sulfate Soils

The application was placed on public exhibition from 17 November to 1 December 2021, with one submission being received. The submission raised concerns regarding the width of Tighe Street and vehicular access. These issues are considered further in this report.

The application is referred to the Hunter Central Coast Regional Planning Panel (the Panel) as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as the proposal constitutes general development over \$30 million.

A briefing was held with the Panel on 7 March 2022 where key issues were discussed, including:

- Light Rail Extension
- Traffic
- Parking arrangement
- Flooding
- Heritage
- SEPP 65/ADG (waiver for design competition has been obtained with associated increases in FSR and height associated with achieving design excellence)
- Land Contamination
- Amenity
- Waste Management
- Interaction with neighbouring sites
- Public Domain/Public Artwork

The assessment within the report below details that these issues have been satisfactorily addressed.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, NLEP 2012 and NDCP 2012, it is considered that the proposal can be supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the EP&A Act, development application DA2021/01459 is recommended for approval subject to the conditions of consent at **Attachment A** of this report.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The subject site constitutes six allotments and is located on the corners of Hunter, Railway and Tighes Street, Newcastle West as shown within **Figures 1** and **2** below. The site is known as 924 Hunter Street Newcastle West. The development site is irregular in shape, the overall site has a total area of approximately 3,955 sqm and is bound to its south by Hunter Street, to its west by Railway Street, and to its north by Tighe Street (having approximate frontages of 75m, 54m, and 74m respectively).

The subject site is predominately hardstand, with very little vegetation, and consists of existing buildings on eastern and south-western boundaries. The site is relatively flat with a slight fall from Hunter Street towards Tighes Street.

The existing tower towards the south western corner is a local heritage item under the NLEP 2012 (I505 – known as 'Dairy Farmers' corner). It is only the middle tower that constitutes the item with the adjoining 'wings' of the building not included as an item. Prior to its conversion in the late 1990s to a motor showroom and associated uses, the site was occupied by the Dairy Farmers Co-operative, and it is from this use that the Heritage item – the clock tower – is derived. The clock tower formed part of the former Dairy Farmers' building and was located mid-way along its Hunter Street facade, rather than on the street corner. The decision to locate the tower in this manner may have had to do with the lesser significance of Railway Street relative to Hunter Street and Tudor Street. The site was a landmark in the city and was referred to as "Dairy Farmers' corner", and being a co-operative, as well as significant employer in the region, the Dairy Farmers' site was of considerable social significance.

The site is zoned B3 Commercial Core under the provisions of the NLEP 2012 and is located within the Newcastle City Centre and Newcastle City Centre Heritage Conservation Area.

Land adjoining the site to the north and east is also zoned B3 Commercial Core, with the land to the west zoned B4 Mixed Use zone and Hunter Street to the south is SP2 Classified Road zone.

The subject site is affected by land contamination, flooding and Class 4 Acid sulfate soils. It is not affected by mines subsidence or bushfire prone lands. It is also noted that subject land is affected by one of several options for a potential future light rail extension route.



**Figure 1 – Subject site highlighted in blue.**



Source – CN OneMap (April 2021)

**Figure 2 – Subject site highlighted in blue.**



Source – CN OneMap (April 2021)

## 1.2 The Locality

The nearby former level-crossing at Railway Street has in recent years been permanently closed to motor vehicles at the railway line, as part of the creation of the Newcastle Interchange, which is located a few hundred metres to the east. The short section of Railway Street to the west of the subject site therefore serves only to access the small number of properties in the immediate vicinity including Tighe Street. Pedestrian access, including recently installed lifts, provide pedestrian access to the northern section of Railway Street beyond the rail line.

The property to the north of the subject site, 4 Tighe Street, has a maximum allowable building height of 90m. Notwithstanding this, an application for a separate seven storey commercial car park has been lodged on that site with a height of approximately 25 metres (DA2021/01679). The application on that site does not trigger determination by the Panel.

The land directly to the east of the site are a combination of commercial buildings one to three storeys in scale. There are no current applications for redevelopment of the adjoining sites north or east of the site other than the commercial car park above (DA2021/01679). The 'Store' site at 854 Hunter Street (which currently has an amendment before the Panel) is the closest new development on the northern side of Hunter Street.

On the opposite of Hunter Street is a similar combination of commercial buildings, one to three storeys in scale. 805 Hunter Street currently has an application under assessment for a 20 storey mixed use apartment proposal (DA2021/1528). Towards the west, on the northern side of Hunter Street is a mix of lower scale commercial buildings with a car yard directly on the western side of Railway Street. Towards the south west, on the corner of Hunter and Tudor Streets, is the Sacred Heart Catholic Church complex of church and various associated buildings.

The proposal is well serviced by public transport being positioned on Hunter Street, at the intersection with Tudor Street, which will provide access to many bus routes. Additionally, the site is within 250 metres (approximately) of the Newcastle Interchange which is the hub for heavy rail, light rail and bus networks.

## 2. THE PROPOSAL AND BACKGROUND

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### 2.1 The Proposal

The proposal is for the partial demolition of existing buildings (excluding the tower constituting the heritage item), erection of mixed-use development comprising commercial premises (retail premises and business premises), two residential towers (30 storey/99 metres and 24 storey/84 metres) containing 182 dwellings and 238 associated car parking spaces.

The particulars of the proposal include:

#### Ground Level

Commercial (retail and office) premises, food and drink premises, residential lobby to access the towers, services, waste and car parking accessed from Tighes Street.

#### Upper Ground

Car parking

#### Level 1

Commercial (office), residential storage for towers and car parking

#### Level 2

Commercial (office), residential storage for towers over, residential apartments (3) and car parking

Level 3

Commercial (office), residential apartments (6), and car parking

Level 4 (podium)

Commercial (office), residential apartments (3), residential communal indoor and outdoor spaces and residential 'work from home' space.

Level 5

Commercial (office), and residential apartments (9 per level)

Level 6 – Level 14 (typical)

Residential apartments (9 per level), and non-trafficable green roof to commercial (office) building

Level 15 – Level 21 (typical)

Residential apartments (7 per level)

Level 22 – Level 24 (typical)

Residential apartments (6 per level)

Level 25 – Level 26 (typical)

Residential apartments (4 per level)

Level 27 – Level 28 (typical)

Residential apartments (2 per level)

Level 29

Single 4 bedroom apartment

The submitted application, following several 'initial feasibility concept schemes' has been lodged utilising a 'trapezoidal scheme' for each of the floorplates.

The key development data is provided in **Table 1**.

**Table 1: Development Data**

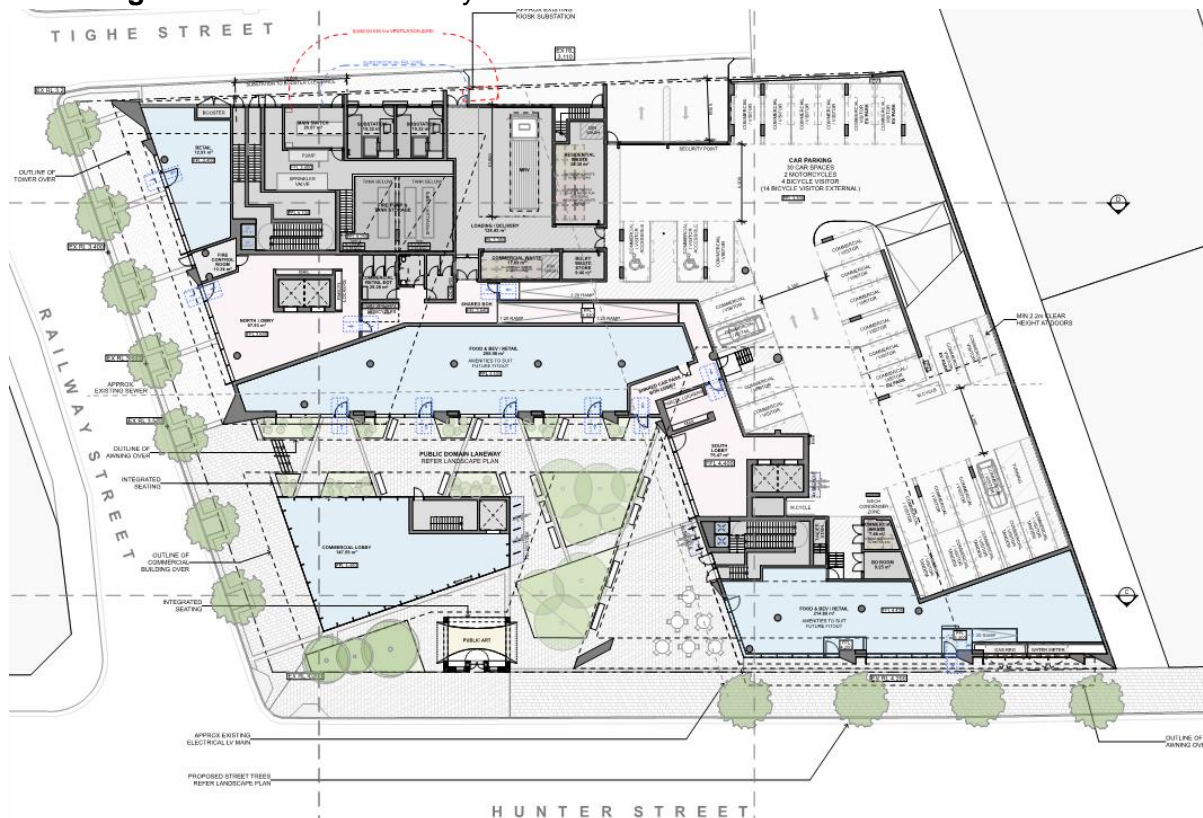
<b>Control</b>	<b>Proposal</b>
Site area	3,955 m <sup>2</sup> (approximately)
GFA	20,960 m <sup>2</sup> (residential) 1,649 m <sup>2</sup> (commercial)  21,563 m <sup>2</sup> (total)
FSR (retail/residential)	5.45:1
Clause 4.6 Requests	None
No of apartments	182
Max Height	99 metres
Landscaped area	The proposal requires a minimum landscaped area of 985.25sqm (25%). The development provides for over



	1,600sqm of communal open space (40%).
Car Parking spaces	238
Setbacks	Highly variable due to the nature of the development

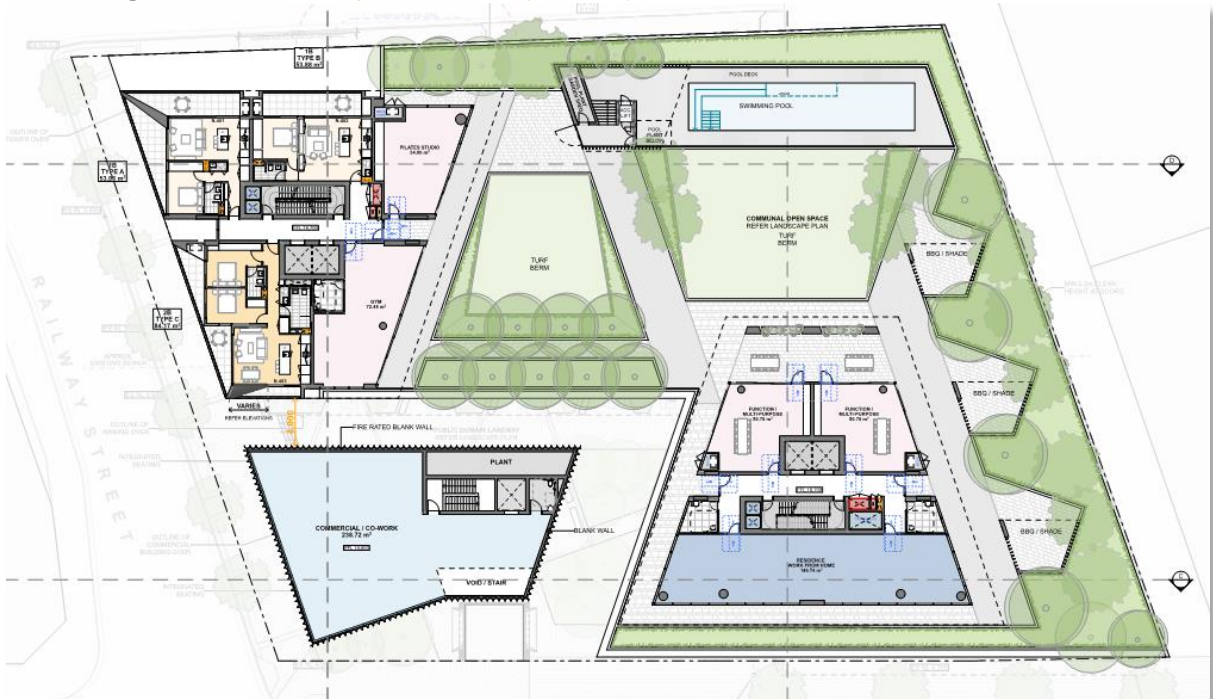
The figures below (**Figures 3- 8**) provide a general outline of the proposed development.

**Figure 3 – Ground Floor Layout**



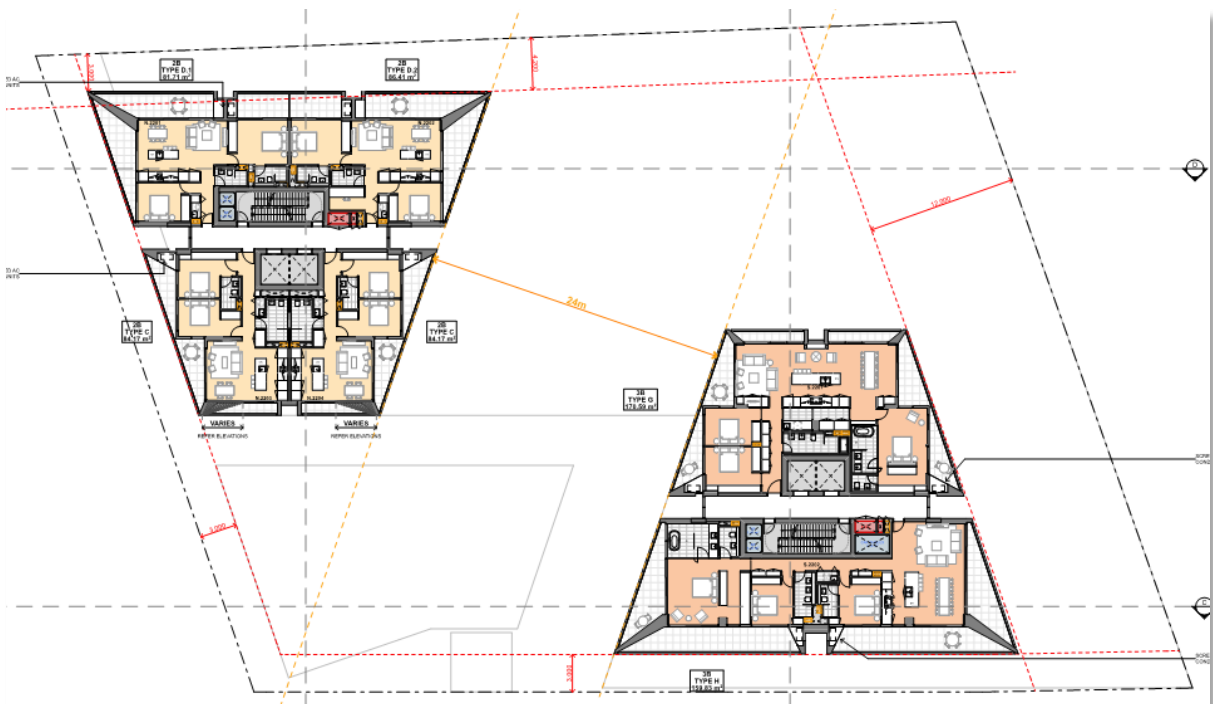
Source CKDS Plans May 2022

**Figure 4 – Landscaped Podium (Level 4)**



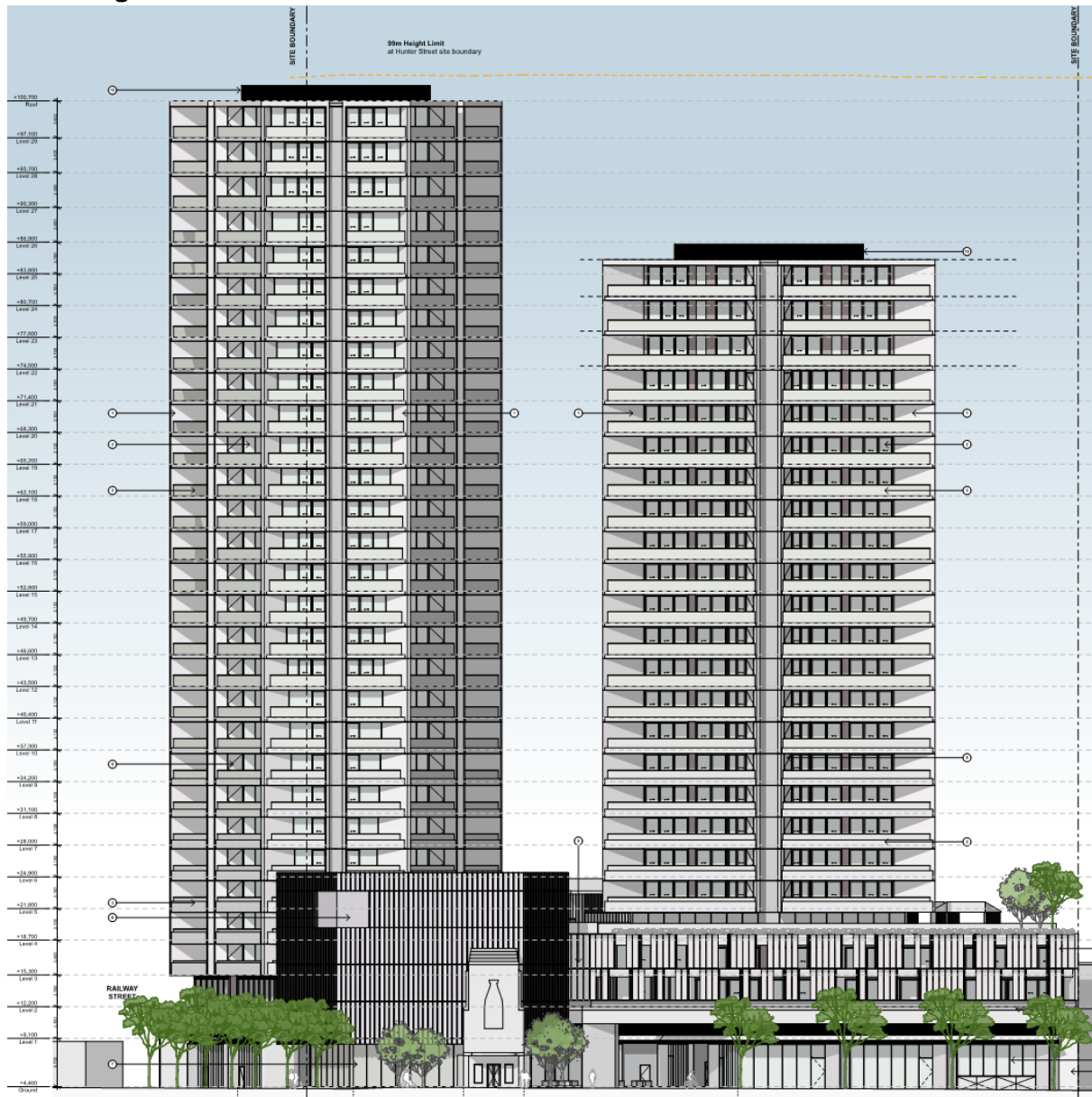
Source CKDS Plans May 2022

**Figure 5 – Typical Layouts (Levels 22-24)**



Source CKDS Plans May 2022

**Figure 6 – Hunter Street Elevation**



Source CKDS Plans May 2022



**Figure 7 – Hunter/Railway Street Perspective**



Source CKDS Plans May 2022

**Figure 8 – Hunter/Railway Street – Street Level Perspective**



Source CKDS Plans May 2022

## **2.2 Background**

A pre-lodgement meeting (PR2021/00081) was held prior to the lodgement of the application on 28 October 2021 where various issues were discussed. A summary of the key issues outlined within the advice is outlined below:

- Heritage
- Traffic & Parking
- Planning Pathway (Regional Planning Panel)
- Design Excellence – Architectural Design Competition
- State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building
- Light Rail Extension
- State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land (previously under SEPP No. 55 – Remediation of Land)
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously under SEPP (Infrastructure) 2007)
- Newcastle City Centre Provisions (Part 7 NLEP 2012)
- Noise & Vibration
- Flooding & Stormwater Management
- Waste Management
- Public Domain (design layout)
- Street Trees
- Public Art

The proposal was also the subject of several pre-lodgement meetings with CN's UDRP.



The development application was lodged on 5 November 2021. A chronology of the development application since lodgement is outlined below in **Table 2** including the Panel's involvement (briefings, deferrals etc) with the application.

**Table 2: Chronology of the DA**

Date	Event
17 November 2021	Exhibition of the application
9 November 2021	DA referred to external/internal agencies
3 February 2022	Request for Information from Council to applicant
7 March 2022	Panel briefing & site inspection
14 March 2022	Request for Information from Council to applicant
31 March 2022	Applicant partial response to request for information
29 April 2022	Applicant response to request for information
3 May 2022	Request for Information from Council to applicant
4 May 2022	Request for Information from Council to applicant
10 May 2022	Request for Information from Council to applicant
11 May 2022	Request for Information from Council to applicant
13 May 2022	Request for Information from Council to applicant
30 May 2022	Applicant response to request for information

### 2.3 Site History

- There is another application under consideration by CN at 4 Tighes Street (also known as 924 Hunter Street) – DA2021/01679 proposing a seven storey car park. This site is located on the north-eastern corner of Tighe and Railway Streets. This application is the subject of a Class One deemed refusal appeal within the Land and Environment Court.

## 3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (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 (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*

- (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*  
*that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is **not** considered to be:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

### **3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Newcastle Local Environmental Plan 2012 (NLEP 2012)

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas Consent is sought for the removal of limited vegetation and would be satisfactory subject to conditions.	Y
BASIX SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Y
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3: Advertising and Signage • Section 3.6 – granting consent to signage Section 3.11(1) – matters for consideration	Y
SEPP 65	• <b>Clause 30(2)</b> - Design Quality Principles - The proposal is consistent with the design quality principles and the proposal is consistent to the ADG requirements.	Y
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development • <b>Section 2.19(1)</b> declares the proposal as regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises ' <i>General development over \$30 million</i> '	Y
SEPP (Resilience & Hazards)	Chapter 2: Coastal Management • Section 2.10(1) & (2) - Development on land within the coastal environment area  Chapter 4: Remediation of Land • <b>Section 4.6</b> - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure • Section 2.118(2) - Development with frontage to classified road • Section 2.119(2) Impact of road noise or vibration on non-road development • Section 2.121(4) - Traffic-generating development	Y
Proposed Instruments	No compliance issues identified.	Yes
LEP	<b>Newcastle Local Environmental Plan 2012 (NLEP 2012)</b>  <ul style="list-style-type: none"> <li>• Clause 2.3 – Zone Objectives and Land Use Table</li> <li>• Clause 4.3 – Height of buildings</li> <li>• Clause 4.4 – Floor space ratio</li> <li>• Clause 4.6 - Exceptions to development standards</li> <li>• Clause 5.1/5.1A – Land acquisition</li> <li>• Clause 5.10 – consideration of Aboriginal and non-aboriginal heritage</li> <li>• Clause 5.21 – consideration of flood impacts</li> <li>• Clause 6.1 – consideration of Acid Sulfate Soils</li> <li>• Clause 6.2 – consideration of earthworks</li> <li>• Clause 7.3 – Minimum building street frontage B3 zone</li> <li>• Clause 7.4 – Building separation (24 metres)</li> </ul>	Majority yes (see any issues below)

	<ul style="list-style-type: none"> <li>• Clause 7.5 – Design excellence</li> <li>• Clause 7.6 – Active street frontages in Zone B3 Commercial Core</li> <li>• Clause 7.10 – Floor space ratio for certain development in Area A</li> </ul>	
DCP	<ul style="list-style-type: none"> <li>• Section 3.03 – Residential Development</li> <li>• Section 3.10 – Commercial Development</li> <li>• Section 4.01 – Flood Management</li> <li>• Section 4.04 – Safety and Security</li> <li>• Section 4.05 – Social Impact</li> <li>• Section 5.01 – Soil Management</li> <li>• Section 5.02 – Land Contamination</li> <li>• Section 5.03 – Vegetation Management</li> <li>• Section 5.04 – Aboriginal Heritage</li> <li>• Section 5.05 – Heritage Items</li> <li>• Section 5.06 – Archaeological Management</li> <li>• Section 6.01 – Newcastle City Centre</li> <li>• Section 6.02 – Heritage Conservation Areas</li> <li>• Section 7.02 – Landscape, Open Space and Visual Amenity</li> <li>• Section 7.03 – Traffic, Parking and Access</li> <li>• Section 7.06 – Stormwater</li> <li>• Section 7.07 – Water Efficiency</li> <li>• Section 7.08 – Waste Management</li> <li>• Section 7.09 – Advertising and Signage</li> <li>• Section 7.10 – Street Awnings and Balconies</li> </ul>	Y

Consideration of the relevant SEPPs is outlined below:

*State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The proposal includes the removal of a small amount of vegetation from the northern side of the site consisting of shrubs.

There are also two existing street trees at the Hunter Street frontage of the which CN's City Greening section has confirmed are healthy and should be retained. City Greening has also advised that additional street trees should be planted as part of the proposal if supported.

The development proposes the removal of the two street trees as part of the application. It is considered that the removal of these two street trees should be supported on the grounds of urban design (UDRP), heritage and engineering conflicts (i.e. conflict between tree retention and the reconstruction of footway, services and utilities). It is recommended that two street trees be planted in compensation with the location to be determined by City Greening.

It is considered that the removal of this vegetation is acceptable in this instance having regard to Part 2.3 of the SEPP subject to recommended conditions of consent addressing compensatory trees at **Attachment A**.

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

*State Environmental Planning Policy – Building Sustainability Index BASIX– 2004* (BASIX SEPP) applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No. 941279S prepared by Credwell dated 21 October 2021 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent at **Attachment A**.

#### *State Environmental Planning Policy (Industry and Employment) 2021*

The proposal is considered to meet the provisions of this SEPP under Section 3.11(1) and Schedule 5 as outlined below in terms of signage.

#### Character of the area

The proposal includes flush wall signage for the proposed commercial/retail premises within the development. The signage is compatible with the existing signs in the area. The development is consistent with the DCP and is considered to be consistent with the future character of the area.

#### Special areas

There are no specific visually important areas that the sign will detract from.

#### Views and vistas

The development does not detract from any important views.

#### Streetscape, setting or landscape

The scale and proportion of the signage is largely consistent with the proposed development and that within the immediate area.

However, concern is raised regarding the largest two signs adjacent to the retained heritage item. Considering the relative position of the existing heritage item, and that the site is within the Newcastle Heritage Conservation Area, the large area signage which wraps around the Hunter/Railway Street corner of the building is not acceptable. It is recommended that the size of the signage be reduced (included as a condition of consent in **Attachment A**). While it would be preferable to reduce both the height and length of both of these signs, it is considered practical and reasonable to reduce the height to 2.4 metres while allowing the length to remain unchanged. This allows sufficient scope to provide commercial signage but decreases its size relative to the position of the heritage item.

#### Site and building

The majority of the proposed signage is compatible with the scale, proportion and other characteristics of the site. Concern is raised regarding the largest two signs that are proposed to be located adjacent to the retained heritage item due to the potential impact on the heritage item as discussed above.

#### Illumination

It is proposed to restrict illumination of the two larger commercial signs on the proposed office building to the hours of 7am to 10pm, and that illumination levels are consistent with that permissible under the DPE Illumination and Reflectance requirements. A condition of consent is recommended at **Attachment A** in this respect.



## Safety

The signage is proposed for a proposed mixed use proposal within a commercial zone. The location of the sign is consistent with other signage in the area and is not considered to have any major safety implications for the area.

## Heritage

The subject site is heritage listed, is within the Newcastle City Centre Heritage Conservation Area, and is adjacent to sites containing items of heritage significance.

As further discussed under Section 7.09 of the NDCP 2012 it is recommended that the scale of the larger two signs on the commercial building be decreased in height to reduce its interaction and impact on the directly adjacent heritage item within the site. Furthermore, that illumination of these two signs be restricted in their hours of operation. The overall proposed signage is otherwise considered to be compatible with the proposed development onsite and consistent with adjoining development in the area. Subject to the recommended conditions of consent, as detailed at **Attachment A**, it is considered that the signage and will not have an adverse impact on the heritage significance of the area or associated heritage items.

Overall, subject to the recommended conditions of consent at **Attachment A**, the proposed signage is considered to be consistent with the provisions of the SEPP.

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

*State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65) aims to improve the quality of residential apartment development by establishing a consistent approach to the design and assessment of new apartment development across the State. SEPP 65 establishes nine design quality principles to be applied in the design and assessment of residential apartment development.

### *Section 4 – Application of Policy*

Section 4(1) of SEPP 65 sets out development for which this policy applies. The development application comprises development for the purposes of mixed use development with a residential accommodation component (182 dwellings) which consists of the erection of a new building of at least 3 or more storeys and containing at least 4 or more dwellings. As such, the provisions of SEPP 65 are applicable in accordance with Section 4(1) of the policy.

Section 4(2) clarifies that if a particular development comprises development which Section 4(1) identifies and other development, SEPP 65 applies only to the part of the development identified under Section 4(1) and does not apply to the other part. As such, the commercial component (retail premises and office premises) of the development application is not subject to the provisions of SEPP 65 in accordance with Section 4(2).

### *Section 28 – Determination of development applications*

Section 28(1) of SEPP 65 requires the consent authority to refer a development application to which this policy applies to the relevant design review panel for advice concerning the design quality of the development prior to determining the application.

Furthermore, Section 28(2) of SEPP 65 requires consent authorities to take into consideration; (a) the advice obtained from the design review panel; and (b) the design quality of the development when evaluated in accordance with the design quality principles; (c) the

*Apartment Design Guide* (ADG), when determining a development application for consent to which SEPP 65 applies.

The development application has been reviewed by CN's UDRP, who operate under a charter stating that they undertake the functions of a design review panel for the purposes of both SEPP 65 and Clause 7.6(6) of the NLEP 2012. The development application has been referred to the UDRP on three occasions, including twice prior to lodgement of the subject development application at the meetings held 30 June 2021, and 25 August 2021.

After receipt of the development application, the proposal was reviewed for a third time, at the meeting of the UDRP held 23 November 2021. Written advice from the UDRP confirmed their position that with the expected resolution of some relatively minor matters identified in the written advice, to the satisfaction of CN's Development Officer, the development is considered to exhibit a high level of design quality.

The development proposal has been amended during the assessment process in response to assessment matters raised by CN, including the recommendation of the UDRP. An assessment of the current amended proposal has been undertaken having regard to the UDRP 23 November 2021 advice in relation to the Design Quality Principles, as detailed in **Table 4** below. CN is satisfied the amendments and additional information submitted has adequately responded to the matters raised by the UDRP in respect to the previous iteration and is considered an appropriate design response.

**Table 4: Consideration of the UDRP advice in relation to the design quality principles under SEPP 65**

Design Quality Principles
Principle 1. Context and Neighbourhood Character
<p><b>UDRP Comment – 23 November 2021</b></p> <p><i>The Panel was advised that the site adjacent to the railway line on the northern side of Tighe Street is proposed to be utilised for a multi-level car parking structure, and CKDS prepared a design and had recently undertaken a Pre-DA discussion with CN Officers in respect to this. The proposal for a seven-level car park was previously mooted in earlier presentation to the UDRP. The likely impacts of the car park proposal, if constructed, upon the subject development were considered by the Panel to be acceptable. It was noted that for the lower three levels above the podium that face Tighe Street, some view losses could be expected, particularly in regard to the single aspect, one bedroom units.</i></p> <p><b>Officer Comment</b></p> <p>The subject site consists of six lots known as 924 Hunter Street Newcastle West, located towards the western end of Hunter Street, and is visually prominent as it is opposite the intersection with Tudor Street, which is a major feeder road. The site is bound to its south by Hunter Street, to its west by Railway Street, and to its north by Tighe Street (having approximate frontages of 75m, 54m, and 74m respectively). The site is zoned B3 Commercial Core under the provisions of the NLEP 2012 and is located within the Newcastle City Centre and Newcastle City Centre Heritage Conservation Area. Land adjoining the site to the north and east is also zoned B3 Commercial Core, with the land to the west zoned B4 Mixed Use zone and Hunter Street to the south is SP2 Classified Road zone.</p> <p>The lot to the eastern side of the site is currently occupied by a low-scaled building that has recently been tenanted by a gymnasium. This building, as well the remainder of development on the site with the exception of the Heritage item, until recently formed part of a motor vehicle showroom and car yard. Prior to its conversion in the late 1990s to a motor showroom and associated uses, the site was occupied by the Dairy Farmers Co-operative, and it is from this use that the Heritage item – the clock tower – is derived. The clock tower formed part of the former Dairy Farmers' building and was located mid-way along its Hunter Street facade, rather than on the street corner (listed heritage item "Dairy Farmers Building" (Local I505). The decision to locate the tower in this manner may have had to do with the lesser significance of Railway Street relative to Hunter Street and Tudor Street. The site was a landmark in the city and was referred to as "Dairy Farmers' corner", and being</p>

a co-operative, as well as significant employer in the region, the Dairy Farmers' site was of considerable social significance.

The Dairy Farmers site, and the Motor showroom that succeeded it, occupied a number of lots that were not amalgamated under single title at the time of the construction of the motor showroom and associated structures, and it is now proposed to rely on the separate land title of the lot currently occupied by the gymnasium, to exclude it from the overall former motor showroom site.

The former level-crossing at Railway Street has in recent years been permanently closed to motor vehicles at the railway line, as part of the creation of the new Transport Interchange, which is located a few hundred metres to the east. The short section of Railway Street to the west of the subject site therefore serves only to access the small number of properties in the immediate vicinity including Tighe Street. Pedestrian access, including recently installed lifts, provide pedestrian access to the northern section of Railway Street beyond the rail line.

It is considered that the adjoining proposed car park could, with appropriate facade and screening treatments, resolve any impacts on the current proposal.

## **Principle 2. Built Form and Scale**

### **UDRP Comment – 23 November 2021**

*The design development of the proposal has continued to refine an already well considered design. The Panel noted the excellent treatment of the ground plane, and the integration of the heritage item, being the former clock tower of the Dairy Farmers plant that occupied the site previously for many years. The ground level is likely to be a popular space, and the clock tower and proposed public art work have been integrated well into an attractive and generous public space. Given its likely popularity, it was suggested that some additional informal fixed seating could usefully be integrated in the open spaces – this is discussed further under the Landscape heading below.*

*Some practical considerations that arose in respect to the interpretive heritage treatment and public art work were raised. The concept and approach were strongly supported by the Panel. Considerations in respect to design development, including structural fixing points for the lighting and other components of the work(s), cleaning and maintenance were noted. Also any potential for light spill that might impact upon adjacent residential units also needs to be considered and addressed as necessary.*

*The Panel was advised that parking allocated for the commercial tenancies was intended to be utilised by staff and delivery vehicles. While this arrangement for commercial-related parking was considered acceptable, the access between the residential visitor car park and the residential lobby spaces is somewhat convoluted. This is capable of resolution but requires consideration as to how it will function. The applicant did advise during the meeting the potential for customer parking for retail or dining outlets to be available in the adjacent proposed multi-level parking facility in Railway Street, which has convenient footpath access to the outlets – CN's assessing officer has noted that relying on any parking located on a separate, unrelated site is problematic as, amongst other issues, required parking for a proposal is needed to be provided on-site under the Newcastle DCP 2012.*

*The Panel was advised that discussions with the relevant Council Officers in respect to waste and recycling collection were ongoing, with the final resolution of storage and access to reflect the outcome of these discussions.*

### **Officer Comment**

An amended landscape design has been submitted which addresses the UDRP's public seating concerns via redesign of the landscape promenades to facilitate increased informal seating that is integrated into smaller individual landscaped zones.

The applicant's architects have acknowledged the concerns regarding the fixing points, lighting and maintenance of the intended public artwork and it is considered acceptable that these issues will be resolved at the detailed design stage by the combination of the artist, heritage consultant and associated consultants such as structural engineers. The applicants have further advised that the illuminated portion of the artwork would "be contained within the clock tower to prevent excessive light spill".

The architectural design has been modified on the ground floor to provide an improved direct route from the car parking area to the public domain promenade avoiding reliance on a longer pathway and potential conflicts. It is considered that the outcome is reasonable in this instance.

The waste aspects of the proposal have been assessed within Section 5.08 of the NDCP 2012 below.

It is considered that the proposal has satisfactorily addressed the issues raised by the UDRP.

### **Principle 3. Density**

#### **UDRP Comment – 23 November 2021**

*The Panel noted that the proposal is in the order of up to 10% over the maximum height control and approximately 8% above the FSR control. As the proposal is definitely considered to demonstrate design excellence, the Panel is able to support these moderate exceedances – which are not considered to bring with them any adverse impacts to either the future occupants or to the surrounding area.*

#### **Officer Comment**

The proposal is considered to be consistent with the 'bonus provisions' under cl7.5 of the NLEP 2012 in terms of height and FSR.

### **Principle 4. Sustainability**

#### **UDRP Comment – 23 November 2021**

*One issue raised previously related to the solar impacts – particularly in summer – in respect to unshaded glazing. The Panel asked the applicant about the solar load, particularly in respect to the western facade. The applicant advised;*

- the fairly deep recessed balconies provide sun shading that in most locations assists with the solar loads generally.*
- For instances where balcony overhangs do not provide useful levels of shading, an 'up-spec' standard of living room glazing is proposed for the southwest apartments in the north tower, which was required to achieve BASIX compliance where the balcony overhang is limited.*

*The Panel noted that BASIX alone, being a multi-factor score, did not guarantee a good level of thermal comfort. It was strongly recommended that a standard of indoor thermal comfort well above the minimum mandate, be offered in these apartments. This is likely to include performance glass and double-glazing, as well as thermally broken window and (glazed) door frames, in some locations at least.*

*In addition to this it was recommended that a suitable standard of interior blind system options be offered for the building – selected to block glare and to provide some assistance with thermal insulation. This would also be of assistance to the aesthetic presentation of the building - to achieve some consistency and provide a reasonably uniform aesthetic as viewed from the exterior.*

#### **Officer Comment**

The submitted Basix report specifically addresses glazing throughout the proposal including its thermal value. The design of the apartments comes standard with an integrated internal roller blinds package which applicants submit "will provide glare management, some thermal performance, improved acoustics, and a consistent external aesthetic in the base building."

It is considered that the proposal has satisfactorily addressed the issues raised by the UDRP.

### **Principle 5. Landscape**

#### **UDRP Comment – 23 November 2021**

##### *Ground level Landscaping*

*The Panel commends the project team for providing accessible semi-public space at ground level as there is very limited public space within this area of Newcastle.*

*The Panel noted that as there is currently very little public amenity in Newcastle West that the area proposed with Dairy Farmers corner has the potential to be a popular break out area for city workers. The Panel recommends that consideration be given to accommodating this potential and further activating the ground level of Dairy Farmers Corner.*

*To improve this amenity the Panel recommends defining the movement corridors to allow seating and garden areas to occupy the interface between the building and the ground plane. Opportunities for capitalising on deep soil areas facing Hunter Street should also be*

*considered, in the context of the significance of the view towards Dairy Farmers Corner from Tudor Street. Narrowing the stairway on Railway Street would assist in freeing up areas on the building edge.*

*The opportunity exists to better integrate the commercial ground floor foyer with the external landscape areas and minimise hard, dead areas between the foyer and the clocktower.*

*By reducing the extent of hard surface at the ground plane, the Hunter Street/Railway Street address has the potential to present as something of an urban oasis for pedestrians.*

#### **Podium landscaping**

*The design demonstrated consideration for appropriate depth of soil for on structure for planting and functional and attractive communal areas for residents*

*The Panel recommends that coordination between the landscape design and structural and hydraulic design is considered and demonstrated as part of the submitted DA to ensure that nominated soil volumes can be adequately supported by the structures below and that required penetrations in the slabs for rooftop drainage are included in calculations.*

#### **Officer Comment**

As discussed above, an amended landscape design has been submitted which addresses the UDRP's public seating concerns via redesign of the landscape promenades to facilitate increased informal seating that is integrated into smaller individual landscaped zones now proposed.

The applicants have submitted advice from their structural engineer confirming that the design of the proposal, specifically the Level Four podium slab, has included allowance for the loading of the proposed landscaping, soils and associated hydraulic loads (i.e. watering/rain).

It is further advised that the revised landscape plan improves the interaction between the proposed office building, the existing clock tower and the public domain forecourt areas and their relationship with Hunter and Railway Streets. It is further noted that this revised design provides an improved connection to the street trees proposed within Railway Street.

Overall, the amended landscape plan improves both the layout and the design outcomes for the site. It is considered that the proposal has satisfactorily addressed the issues raised by the UDRP.

### **Principle 6. Amenity**

#### **UDRP Comment – 23 November 2021**

*The Panel commended the proposal for good compliance with the ADG building separation requirements and acknowledged that this has allowed the proposal and its future residents to reap the rewards resulting in a mixed used development with high levels of amenity.*

*Solar loads on glazing in some locations are potentially considerable, as discussed under the Sustainability heading. This should be addressed with provision of performance glazing and mullion/fining solutions, as well as appropriate interior glare minimisation through the provision of appropriate window coverings.*

#### **Officer Comment**

The proposal is considered to be a good design and responds well to the requirements of the ADG (as discussed within the ADG assessment further below).

As discussed above, the submitted Basix report specifically addresses glazing throughout the proposal including its thermal value. It is noted that the thermal rating of the proposed glazing varies given the orientation of the proposed windows with the northern facing windows having the highest ratings.

The design of the apartments comes standard with an integrated internal roller blinds package which applicants submit " will provide glare management, some thermal performance, improved acoustics, and a consistent external aesthetic in the base building."

It is considered that the proposal has satisfactorily addressed the issues raised by the UDRP.

### **Principle 7. Safety**



**UDRP Comment – 23 November 2021**

*Carparking security points should be designated. Allocated and visitor car parks should be identified, and workable operational procedures set out to guide visitors to residential lobby spaces.*

**Officer Comment**

The architectural design has been modified on the ground floor to provide an improved direct route from the car parking area to the public domain promenade avoiding reliance on a longer pathway and potential conflicts. It is considered that the outcome is reasonable in this instance.

Residential and commercial/visitor parking is separated in a manner to maintain security for future residents. Furthermore, access control will be implemented at the lifts restricting the upper levels only to future residents.

It is considered that the proposal has satisfactorily addressed the issues raised by the UDRP.

**Principle 8. Housing Diversity and Social Interaction****UDRP Comment – 23 November 2021**

*The proposal offers a good apartment mix. It also offers an attractive range of spaces - both designated and informal – for residents to socialise and work.*

**Officer Comment**

It is considered that the proposal is satisfactory and no further issues were raised by the UDRP in this respect.

**Principle 9. Aesthetics****UDRP Comment – 23 November 2021***Public Art:*

*The opportunities for public art are supported and should have the opportunity to activate the public domain. However, the Panel notes the Public Art Reference Group may have an alternative view on the opportunities presented. It is noted that the designation of the public art budget is likely to inform the public art typologies, scale and quantity of artworks.*

*As the public art concept is developed, the following considerations can assist in delivering a high quality artwork that is low maintenance and has little visual and acoustic impact on residents.*

- Consider the effect of light and audio spill on apartments in particular Apartment Section 201. Test light and audio spill with lighting and acoustic engineer.*
- Identify fixing points for any catenary artwork, in particular on the facade of the shared office space.*
- Consider access for maintenance to any catenary artwork and a low maintenance artwork is strongly encouraged to reduce costs for the body corporate.*
- Start the process early to facilitate a high level of integration and avoid delays.*

*Aesthetics Generally:*

*The development sits well in its context, and the towers demonstrate elegant, refined proportions and will be an attractive form on the skyline. Given the extent of clear glazed balustrades on balconies, it will be necessary to ensure good controls in the body corporate regulations to ensure that a reasonable level of presentation is achieved in respect to public views to the balconies and any items stored or located there.*

*As previously noted, the locations for signage, including retail, commercial and residential signage should be clearly identified at DA stage. Likewise, all infrastructure locations and connections, including services, HVAC, fire booster pumps, tanks and related pipework, electrical substations and metering should be documented, so as not to detract from the appearance of the completed development.*

**Officer Comment**

It is considered that the proposed public art is conceptually acceptable. Further requirements for public art are addressed within the recommended conditions of consent at **Attachment A**. The further development of the required public art is normally undertaken as a post consent process with

CN's Public Art Reference Group (PARG). The design, maintenance and structural issues associated with any art installation will be finalised at the design development stage post consent.

As noted above, the illuminated portion of the public artwork would be limited to inside of the clock tower and, as such, would not have lighting impacts on the proposed dwellings.

The applicants have provided the following comments in relation to the general aesthetics aspects raised by the UDRP:

*"The architectural design will bring an elegant yet dynamic presence to the Newcastle streetscape and skyline. It has been subject to extensive external design review, and has a considered material palette that considers aesthetics, durability, maintenance, and response to heritage.*

*Glass balustrades at the higher tower levels provide unobstructed access to sunlight and view, with the introduction of 'diminishing' solid elements to the balustrades at lower levels for privacy and level of presentation to the public.*

*The diminishing solid balcony elements are applied to the bottom third of each tower, blocking the view to residential balconies from the immediate public domain. From more distant vantage points, a combination of reflections on the glass balustrades at upper levels and purely the distance to a third of the way up the tower, it is considered that a reasonable level of presentation will be maintained from the public domain with the proposed scheme.*

*The development application scheme has been reviewed and coordinated to accommodate spatial inputs from services consultants including structural, civil, electrical, ASP3, hydraulic, mechanical, BASIX. Fire booster pumps, tanks, substations and meters are all sized by relevant consultants and locations nominated on the General Arrangement plans."*

It is considered that the applicant's response to the general aesthetics aspects is acceptable in this instance.

The proposal has satisfactorily addressed the issues raised by the UDRP.

A SEPP 65 Design Verification Statement (revision A, dated 14 October 2021, prepared by CKDS) was submitted in support of the current amended proposal pursuant to Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg 2000). This statement confirms that a qualified designer, which means a person registered as an architect in accordance with the *Architects Act 1921* as defined by Clause 3 of the EP&A Reg 2000, directed the design of the architectural drawings and provides an explanation that verifies how the design achieves the design quality principals and objectives of the ADG.

The ADG provides greater detail on how residential development proposals can meet the design quality principles set out in SEPP 65 through good design and planning practice. Each topic area within the ADG is structured to provide; (1) **objectives** that describe the desired design outcomes; (2) **design criteria** that provide the measurable requirements for how an objective can be achieved; and (3) **design guidance** that provides advice on how the objectives and design criteria can be achieved through appropriate design responses, or in cases where design criteria cannot be met.

Whilst the ADG document is a guide which, under Section 28(2) the consent authority must take into consideration when determining a development application for consent to which SEPP 65 applies, the provisions of Clause 6A under SEPP 65 establish that the objectives, design criteria and design guidance set out in Parts 3 and 4 of the ADG will prevail over any inconsistent DCP control for the following topic area;

- a) visual privacy,
- b) solar and daylight access,
- c) common circulation and spaces,
- d) apartment size and layout,

- e) ceiling heights,
- f) private open space and balconies,
- g) natural ventilation,
- h) storage.

Assessment of the current amended proposal has been undertaken having consideration for the ADG. The residential apartment component of the development application is considered to demonstrate good design and planning practice.

**Table 5** below, addresses compliance with the objective and design criteria of the relative topic areas in accordance with Clause 6A of SEPP 65. Where a topic area is not specified as a design criteria, or where it is not possible for the development to satisfy the design criteria, the compliance comments in the following table will have regard to the design guidance relevant to that topic area.

**Table 5: Compliance with required topic areas of the Apartment Design Guide (ADG)**

<b>3B Orientation</b>		
<b>Objective 3B-2</b> Overshadowing of neighbouring properties is minimised during mid-winter		
<b>Comment:</b>		<b>Compliance:</b>
Solar access to living rooms, private open spaces and communal open space of neighbouring properties has been considered. Neighbouring properties to the east and west of the site contain existing commercial buildings. To the south the site is bounded by Hunter Street which provides a buffer to future residential proposal on the opposite side of Hunter Street to the south. The proposed development has been suitably laid out having regard to the general orientation and aspect of the site. Due to the relative slenderness of the two towers, the overshadowing impacts to adjoining buildings is considered to be minimised to an acceptable level within the tight urban context. The development proposal was referred to CN's UDRP during the assessment process. The UDRP noted the overshadowing impacts as appearing acceptable.		Complies
<b>3D Communal and public open space</b>		
<b>Objective 3D-1</b> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping		
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
1. Communal open space has a minimum area equal to 25% of the site.	The total site area equals 3,941sqm 25% of the total site area equals 985.25sqm Over 1,600sqm of communal open space is provided at Level 4 (podium), equating to approximately 40% of the site area.	Complies
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	The Level 4 (podium) communal open space is orientated north and achieves a minimum of 2hrs sunlight between 9am and 3pm in mid-winter to over 50% of the area.	Complies
<b>3E Deep soil zones</b>		

**Objective 3E-1**

Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.

Design Criteria:			Comment:	Compliance:
1. Deep soil zones are to meet the following minimum requirements:			<p>The total site area equals 3,941sqm 7% of the total site area equals 275.87sqm</p> <p>The design guidance provided for this objective acknowledges that achieving the design criteria is not possible on some sites including where:</p> <ul style="list-style-type: none"> <li>The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres); and or</li> <li>There is 100% site coverage or non-residential uses at ground floor level.</li> </ul> <p>Achieving the design criteria is not possible due to the location and constraints of the subject site (high density area), and the extensive site coverage with non-residential development at ground. The proposal instead complies with the design guidance for this objective by integrating acceptable stormwater management and alternative forms of planting such as generous planting on structures (Level 4 podium communal open space).</p> <p>This is considered acceptable.</p>	Satisfactory (Merit based assessment)
Site area	Minimum dimensions	Deep soil zone (% of site area)		
greater than 1500m <sup>2</sup>	6m	7%		

**3F Visual privacy****Objective 3F-1**

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

Design Criteria:			Comment:	Compliance:
1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			<p>The site is irregular in shape, with three street frontages; Hunter Street (south boundary), Railway Street (west boundary), and Tighe (north boundary).</p> <p>As such, the site has one 'side boundary' (east) – for which the minimum separation distances are applicable and are discussed below.</p> <p><b>Separation distances to east boundary</b></p> <p><u>Up to 12m (Ground Level to Level 3)</u></p> <p>No apartments proposed on Ground Level, Upper Ground Floor, and Level 1. As such the minimum separation distances for buildings to the side and rear boundaries described in this part of the ADG are not applicable at these levels.</p> <p>At Level 2 and Level 3, a blank wall with nil setback is proposed for the full extent of the east boundary. No separation is required to blank walls, and as such the proposed blank wall complies with the minimum separation</p>	Complies
Building height	Habitable rooms & balconies	Non-habitable rooms		
up to 12m (4 storeys)	6m	3m		
up to 25m (5-8 storeys)	9m	4.5m		
over 25m (9+ storeys)	12m	6m		





	<p>Also at Level 4 and Level 5, a minimum separation distance of 4m is provided between the south facing apartment windows and balconies of the north tower (apartment N.403, N.504, and N.505 only) and the north facade of the 'shared office', which is a blank wall.</p> <p>Whilst both of the above do not comply with the minimum distance for building on the same site at this height (9m for habitable rooms to blank wall) all effected apartments are 'corner apartments' benefitting from dual aspect, with the balcony in question being a 'secondary balcony' accessed off the kitchen to provide further amenity to apartment living. The non-compliance is able to be accepted on a balanced view having regard for both visual privacy, and access to light and air.</p> <p>At Level 6 and Level 7, a minimum 24m separation distance is provided between the apartment windows and balconies of the two towers. This complies with the minimum distance for building on the same site at this height (18m for habitable rooms).</p> <p><u>Over 25m (Level 8 – Level 30)</u></p> <p>At Level 8 and above, a minimum 24m separation distance is provided between the apartment windows and balconies of the two towers. This complies with the minimum distance for building on the same site at this height (24m for habitable rooms).</p>	Complies
<b>A4 Solar and daylight access</b>		
<b>Objective 4A-1</b>		
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space		
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	<p><b>Solar access to apartment living rooms</b></p> <p>The living rooms of 134 out of the 182 apartments proposed, or 73.6%, will achieve a minimum of 2hrs sunlight during 9am and 3pm at mid-winter.</p> <p>(For details refer to '<i>Schedules Yield Schedule</i>' drawing A-7001, issue E, dated 30 May 2022, prepared by CKDS)</p>	Complies
	<p><b>Solar access to apartment private open space</b></p> <p>The private open space of 134 out of the 182 apartments proposed, or 73.6%, will achieve a minimum of 2hrs sunlight during 9am and 3pm at mid-winter.</p> <p>(For details refer to '<i>Schedules Yield Schedule</i>' drawing A-7001, issue E, dated 30 May 2022, prepared by CKDS)</p>	Complies

Design Criteria:	Comment:	Compliance:
2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.	N/A	N/A
Design Criteria:	Comment:	Compliance:
3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	26 out of the 182 apartments proposed, or 14.3%, will receive no direct sunlight between 9am and 3pm at mid-winter. (For details refer to 'Schedules Yield Schedule' drawing A-7001, issue E, dated 30 May 2022, prepared by CKDS)	Complies
<b>4B Natural ventilation</b>		
<b>Objective 4B-3</b> The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.		
Design Criteria:	Comment:	Compliance:
1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	38 out of the 48 apartments proposed on the first nine storeys of the proposal, 79.2%, are naturally cross ventilated. (For details refer to 'Schedules Yield Schedule' drawing A-7001, issue E, dated 30 May 2022, prepared by CKDS) No enclosed balconies are proposed. For the single aspect apartments, the layout and design maximise natural ventilation; apartment depths have been minimised and frontages maximised to increase ventilation and airflow. All habitable rooms are naturally ventilated via adjustable windows with suitable effective operable areas.	Complies
Design Criteria:	Comment:	Compliance:
2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	N/A	N/A
<b>4C Ceiling heights</b>		
<b>Objective 4C-1</b> Ceiling height achieves sufficient natural ventilation and daylight access.		
Design Criteria:	Comment:	Compliance:
1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	<b>Mixed use</b> The site is not located within the B4 Mixed Use zone as such the increased ceiling heights for ground and first floor described in this part of the ADG are not applicable.	N/A

<b>Minimum ceiling height for apartment and mixed use buildings</b>		Notwithstanding the above, it is noted that Ground Level has an increased floor-to-floor height of 4.7m. As such, a minimum ceiling height from finished floor level to finished ceiling level of 3.3m can be achieved for the ground floor to promote future flexibility of use.											
Habitable rooms	2.7m												
Non-habitable	2.4m												
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<b>Apartments</b> All storeys containing apartments (Level 2 to Level 29) have a floor-to-floor height of at least 3.1m. As such, a minimum ceiling height from finished floor level to finished ceiling level of 2.7m to habitable rooms and 2.4m to non-habitable rooms can be achieved for all apartments.  No two storey apartments or attic spaces are proposed.	Complies										
These minimums do not preclude higher ceilings if desired.													
<b>4D Apartment size and layout</b>													
<b>Objective 4D-1</b> The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.													
<b>Design Criteria:</b>		<b>Comment:</b>	<b>Compliance:</b>										
1. Apartments are required to have the following minimum internal areas: <table><tr><td><b>Apartment type</b></td><td><b>Minimum internal area</b></td></tr><tr><td>studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.		<b>Apartment type</b>	<b>Minimum internal area</b>	studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	All apartments proposed are provided the minimum internal areas required.  (For details refer to 'Schedules ADG Compliance', drawings A-7008 and A-7009, Issue E, dated 30 May 2022, prepared by CKDS)	Complies
<b>Apartment type</b>	<b>Minimum internal area</b>												
studio	35m <sup>2</sup>												
1 bedroom	50m <sup>2</sup>												
2 bedroom	70m <sup>2</sup>												
3 bedroom	90m <sup>2</sup>												
<b>Design Criteria:</b>		<b>Comment:</b>	<b>Compliance:</b>										
2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.		All habitable rooms within the apartments are provided with a window within an external wall	Complies										

<b>Objective 4D-2</b> Environmental performance of the apartment is maximised.		
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	N/A (all apartments are provided a combined living/ dining/ kitchen area)	N/A
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	All apartments proposed have a maximum habitable room depth of 8m from a window for open plan living, dining and kitchen area. (For details refer to 'Schedules ADG Compliance', drawings A-7008 and A-7009, Issue E, dated 30 May 2022, prepared by CKDS)	Complies
<b>Objective 4D-3</b> Apartment layouts are designed to accommodate a variety of household activities and needs.		
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
1. Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	All master bedrooms have a minimum area of 10m <sup>2</sup> and all other bedrooms have a minimum area of 9m <sup>2</sup> (excluding wardrobe space). (For details refer to 'Schedules ADG Compliance', drawings A-7008 and A-7009, Issue E, dated 30 May 2022, prepared by CKDS)	Complies
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m (excluding wardrobe space). (For details refer to 'Schedules ADG Compliance', drawings A-7008 and A-7009, Issue E, dated 30 May 2022, prepared by CKDS)	Complies
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments.</li> <li>• 4m for 2 and 3 bedroom apartments.</li> </ul>	80 out of the 182 apartments proposed have living rooms or combined living/ dining rooms which achieve the minimum dimensions required for the number of bedrooms provided. Details of the non-complying apartments are listed below; <u>UNIT TYPE B – 12 x 1 Bedroom apartments</u> 'Unit Type B' apartments have a combined living/ dining room with a minimum dimension of 3.4m, which is less than the minimum 3.6m dimensions required for a combined living/ dining room within a 1 bedroom apartment. <u>UNIT TYPE C – 66 x 2 Bedroom apartments</u> 'Unit Type C' apartments have a combined living/ dining room with a minimum dimension of 3.9m, which is less than the minimum 4m dimensions required for a combined living/ dining room within a 2 bedroom apartment.	Satisfactory (Merit based assessment)

	<p><u>UNIT TYPE D.1 – 12 x 2 Bedroom apartments</u></p> <p>'Unit Type D.1' apartments have a living room with a minimum dimension of 3.5m, which is less than the minimum 4m dimensions required for a living room within a 2 bedroom apartment.</p> <p><u>UNIT TYPE D.2 – 12 x 2 Bedroom apartments</u></p> <p>'Unit Type D.2' apartments have a living room with a minimum dimension of 3.5m, which is less than the minimum 4m dimensions required for a living room within a 2 bedroom apartment.</p> <p>The design guidance for this objective acknowledges that a merit based assessment is appropriate in circumstances where minimum areas or room dimensions are not met.</p> <p>The design drawings have suitably demonstrated the apartments are well designed by showing the useability and functionality of the space with realistically scaled furniture layouts and circulation spaces, despite the minor non-compliance.</p> <p>As such, the proposal complies with the design guidance for this objective.</p> <p>(For schedule of the apartment types, and furniture layouts, refer to 'Schedules ADG Storage', drawings A-7006 and A-7007, Issue E, dated 30 May 2022, prepared by CKDS)</p>																
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>															
4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	N/A	N/A															
<b>4E Private open space and balconies</b>																	
<p><b>Objective 4E-1</b></p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p>																	
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>															
<p>1. All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Min. area</th><th>Min. depth</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>4m<sup>2</sup></td><td>-</td></tr> <tr> <td>1 bedroom</td><td>8m<sup>2</sup></td><td>2m</td></tr> <tr> <td>2 bedroom</td><td>10m<sup>2</sup></td><td>2m</td></tr> <tr> <td>3+ bedroom</td><td>12m<sup>2</sup></td><td>2.4m</td></tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwelling type	Min. area	Min. depth	Studio	4m <sup>2</sup>	-	1 bedroom	8m <sup>2</sup>	2m	2 bedroom	10m <sup>2</sup>	2m	3+ bedroom	12m <sup>2</sup>	2.4m	<p>100 out of the 182 apartments have primary balconies that achieve the minimum area and depths required.</p> <p>Details of the non-complying apartments are listed below;</p> <p><u>UNIT TYPE C – 66 x 2 Bedroom apartments</u></p> <p>'Unit Type C' apartments have a primary balcony with depths varying above and below the minimum 2m depth required for 2 bedroom apartments.</p> <p><u>UNIT TYPE F – 3 x 3 Bedroom apartments</u></p> <p>'Unit Type F' apartments have a primary balcony with a maximum depth of 2m, which does not achieve the 2.4m minimum depth required for 3 bedroom apartments.</p> <p><u>UNIT TYPE G – 13 x 3 Bedroom apartments</u></p>	<p>Satisfactory (Merit based assessment)</p>
Dwelling type	Min. area	Min. depth															
Studio	4m <sup>2</sup>	-															
1 bedroom	8m <sup>2</sup>	2m															
2 bedroom	10m <sup>2</sup>	2m															
3+ bedroom	12m <sup>2</sup>	2.4m															

	<p>'Unit Type G' apartments have a primary balcony with depths varying above and below the minimum 2m depth required for 2 bedroom apartments.</p> <p>A justification for the proposed variation is provided in the submitted '<i>DA Design Quality Statement</i>' (revision A, dated 21 October 2021, prepared by CKDS). The <i>DA Design Quality Statement</i> asserts;</p> <p><i>"Areas comply and typically far exceed ADG minimum total sizes per unit.</i></p> <p><i>Depths vary above and below the minimums in some areas of balcony. Multiple balconies per apartment are generally provided, with the relationship of balconies to living room spaces allowing the balconies in most instances to serve as an extension to the living space. Splayed blade walls are provided to the corners to create wind breaks, frame views and provide multiple balcony options for corner apartments."</i></p> <p>The design drawings have suitably demonstrated the apartment balconies are well designed by showing the useability and functionality of the space with realistically scaled furniture layouts and circulation spaces, despite the non-compliance.</p> <p>Furthermore, the development proposal was referred to CN's UDRP for design review. The orientation and geometric plan form of the apartment balconies were specifically raised in the UDRP's 25 August 2021 advice. The UDRP supported the spatial arrangement of the apartment balconies:</p> <p><i>"Although the balconies do not in all instances meet the Apartment Design Guidelines (ADG) minimum dimensions, the provision of multiple balconies per apartment and the relationships of balconies to living room spaces were such that the balconies in many instances can serve as an extension to the living space."</i></p> <p>The non-compliances proposed are minimal and can be accepted on a balance view regarding both minimum balcony depths and areas.</p> <p>(For schedule of the apartment types, and furniture layouts, refer to '<i>Schedules ADG Storage</i>', drawings A-7006 and A-7007, Issue E, dated 30 May 2022, prepared by CKDS).</p>	
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<b>Design Criteria:</b> 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	N/A (No apartments proposed on Ground Level. Whilst apartments are located on Level 4 where the communal landscaped podium is located, the design and location of the apartments is not what is considered a 'podium or similar structure').	N/A
<b>4F Common circulation and spaces</b>		
<b>Objective 4F-1</b> Common circulation spaces achieve good amenity and properly service the number of apartments.		
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
1. The maximum number of apartments off a circulation core on a single level is eight.	The maximum number of apartments off a circulation core on a single level in either tower is five.	Complies
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Each tower contains two lifts servicing the residential apartments. Meaning, on average a single lift will service 54.5 and 36.5 apartments in the north and south towers respectively. A people flow analysis has been prepared in support of the variation (see ' <i>Traffic Analysis Report for Newcastle Dairy Farmers Corner</i> ' (version: Report 1, dated 1 March 2022, prepared by Kone Elevators Pty Ltd). The accompanying letter (dated 1 March 2022, prepared by Kone Elevators Pty Ltd) explains; <ul style="list-style-type: none"> <li>The analysis report was based on a lift speed of 2mps, which meets the performance requirements for residential apartment buildings.</li> <li>The analysis report was based on an assumption of 1.5 people per bedroom and 100% building occupancy. Additionally, the entry percentages have been assumed.</li> <li>At 7.5% handling capacity the waiting times are approximately 45 seconds respectively, where anything under 60 seconds is considered good for residential accommodation.</li> <li>It is the opinion of Kone Elevations Pty Ltd, that two lifts per tower at 2.0mps will be sufficient and meet the performance requirements for residential development.</li> </ul>	Satisfactory (Merit based assessment)
<b>4G Storage</b>		
<b>Objective 4G-1</b> Adequate, well designed storage is provided in each apartment.		
<b>Design Criteria:</b>	<b>Comment:</b>	<b>Compliance:</b>
	<b>Storage located within the apartments</b>	



<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>1 bedroom</td><td>6m<sup>3</sup></td></tr><tr><td>2 bedroom</td><td>8m<sup>3</sup></td></tr><tr><td>3+ bedroom</td><td>10m<sup>3</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	1 bedroom	6m <sup>3</sup>	2 bedroom	8m <sup>3</sup>	3+ bedroom	10m <sup>3</sup>	<p>All apartments are provided with storage located and accessed from within the apartment.</p> <p>148 out of the 182 apartments are provided with storage located and accessed from within the apartment (including balcony storage) equal to at least 50% of the storage volume required in accordance with the number of bedrooms.</p> <p>Details of the non-complying apartments are listed below;</p> <p><u>UNIT TYPE E.1 – 17 x 2 Bedroom apartments</u></p> <p>'Unit Type E.1' apartments have 3.17m<sup>3</sup> of storage located within the apartment. A total of 8m<sup>3</sup> is required for 2 bedroom apartments, with at least 4m<sup>3</sup> (50%) required to be located within the apartment.</p> <p><u>UNIT TYPE E.2 – 17 x 2 Bedroom apartments</u></p> <p>'Unit Type E.1' apartments have 3.17m<sup>3</sup> of storage located within the apartment. A total of 8m<sup>3</sup> is required for 2 bedroom apartments, with at least 4m<sup>3</sup> (50%) required to be located within the apartment.</p> <p>(For details refer to 'Schedules ADG Storage', drawings A-7006 and A-7007, Issue E, dated 30 May 2022, prepared by CKDS).</p> <p>A justification for the proposed variation is provided in the submitted 'DA Design Quality Statement' (revision A, dated 21 October 2021, prepared by CKDS). The DA Design Quality Statement asserts;</p> <p><i>"Internal volumes generally achieved. Minor shortfalls on some unit types to be compensated with additional external volume to achieve compliant totals.</i></p> <p>The technical non-compliance is minor (0.83m<sup>3</sup>) and can be accepted on a balance view regarding storage provided both internal and external to the apartments.</p>	<p>Satisfactory (Merit based assessment)</p>
Dwelling type	Storage size volume									
1 bedroom	6m <sup>3</sup>									
2 bedroom	8m <sup>3</sup>									
3+ bedroom	10m <sup>3</sup>									
	<p><b>Storage located external to the apartments</b></p> <p>Where the total storage volume requirements are not satisfied by the storage located and accessed from within the apartment (including balcony storage); the storage volume located, and accessed from common areas (individual storage cages accessed from the carparking areas on Upper Ground Level, Level 01, and Level 02) are proposed to achieve the total storage volume required.</p> <p>71 apartments achieve the total storage volume required without the need for additional storage space located and accessed external to the apartment.</p> <p>Meaning, the remaining 112 apartments require the allocation of a 'storage cage' to satisfy the</p>	<p>Complies</p>								

	<p>minimum storage volume requirements set out in this part of the ADG.</p> <p>(For details refer to '<i>Schedules ADG Storage</i>', drawings A-7006 and A-7007, Issue E, dated 30 May 2022, prepared by CKDS).</p> <p>Analysis of the current amended floor plans (drawings A-1102 to A1104, issue E, dated 30 May 2022) found a total of 174 storage cages are provided;</p> <ul style="list-style-type: none"> <li>• 'UPPER GROUND FLOOR PLAN' – 5 storage cages</li> <li>• 'LEVEL 1' – 87 storage cages</li> <li>• 'LEVEL 2' – 82 storage cages</li> </ul> <p>Whilst there are enough storage cages shown on the current amended floor plans for the number of apartments requiring the provision of additional storage external to the apartment, limited information is provided to ensure that apartments which do not have 100% of the required storage volume located within the apartment are allocated a 'storage cage' of adequate size to meet the total minimum storage volume required. This has been addressed by imposing a suitable worded condition of consent at <b>Attachment A</b>.</p>	
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#### *State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)*

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal comprises a *General development over \$30 million*. Accordingly, the Hunter Central Coast Regional Planning Panel (HCCRPP) is the consent authority. The proposal is consistent with this Policy.

#### *State Environmental Planning Policy (Resilience and Hazards) 2021*

#### Chapter 2: Coastal Management

Section 2.10(1) & (2) – '*Development on land within the coastal environment area*' of the SEPP includes broad provisions addressing the protection of coastal values within a 500 metre wide area.

Section 2.10(1) & (2) provides 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.

The development is located upon highly disturbed land and has been commercially used for many decades with the current site being nearly 100% hardstand and including two existing buildings. It is considered that the current proposal will have no likely impacts on the coastal environment area under the SEPP and is acceptable particularly in relation to the biophysical environment and coastal processes and maintaining public access to the foreshore.

The proposal will have no material impact on environmental, coastal, native vegetation, surf zone or access issues listed above. Similarly, the long historic usage of the site for industrial and commercial uses, plus its highly disturbed nature, leaves negligible coastal attributes remaining as part of the subject site. The proposal has been assessed in terms of Aboriginal heritage and archaeological aspects and is considered to be acceptable. Overall, the proposal is acceptable, on balance, in terms of its impacts.

#### Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (the Resilience and Hazards SEPP) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and 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. In order to consider this, a Preliminary Site Investigation (PSI), Detailed Site Investigation (DSI) and a Remedial Action Plan (RAP) has been prepared for the site.

The proposal has been assessed by CN's Environmental Health Co-ordinator and is considered to be acceptable subject to conditions of consent recommended at **Attachment A**.

A PSI prepared by Douglas Partners Pty Ltd has been submitted with the application. The PSI included limited sampling in accessible locations. In these limited locations, the testing confirmed the site is filled to a depth varying between 1.0 - 2.3m. Some samples exceeded the residential (high density) criteria for Benzo(a)pyrene and asbestos.

In relation to asbestos the PSI states:

*"The presence of asbestos materials in fill, together with observed building rubble in fill across the majority of the site and the historical demolition activities at the site indicate a high risk of further asbestos materials to be present within upper fill materials. Detailed asbestos investigation would be required to confirm the extent and concentration of asbestos across the site." p.33*

In relation to ASS the PSI noted a general absence of ASS conditions in natural sands above the water table (i.e. about 2.6m depth), and the presence of PASS below about 2.6m. It was noted that only limited detailed ASS testing has been conducted and further testing is recommended to confirm these conditions.

With these limited results, the PSI recommended:

*"the proposed disturbance of soils below the water table, if any, are undertaken with reference to a site-specific acid sulfate soil management plan (ASSMP)." p.35*

Investigations in the vicinity of the redundant underground storage tank (UST) were also limited due to known underground infrastructure and safe set back distances. The PSI notes that residual impacts to soil and groundwater may be present in the vicinity of the UST. p.37

In conclusion the PSI states:

*"Based on the PSI findings, remediation/management would be required to render the site suitable for the proposed development from a contamination perspective, due to the bonded and friable ACM impacts in fill materials and potentially as a result of the presence of PAH and*

*TRH impacts in fill or residual impacts in the vicinity of the underground fuel infrastructure. Remediation should be detailed in a site-specific RAP for the development." p.38*

*"In summary, the site is considered to be suitable for the proposed mixed use multi-storey development, subject to appropriate remediation / management of contamination and regulatory approvals. The assessment has considered generic residential (minimal access to soils) and commercial / industrial (ground floor) land use scenarios on the basis of the proposed development." p.39*

The PSI then provides a series of recommendations for additional investigation and testing of ASS, asbestos, waste classification of soils for disposal and additional USTs followed by the preparation of a site specific RAP.

Following requests for further information, a RAP and an Acid Sulfate Soil Management Plan (ASSMP) has been prepared (by Douglas Partners) and submitted to CN.

The Douglas Partners RAP proposes to decommission and remove remaining Underground Storage Tanks and associated infrastructure and remediate hydrocarbon impacted soils and excavation and off-site removal of the bulk of ACM impacted fill to RL 1.5, with further detailed assessment and validation of any fill to remain on site.

It is noted that the Douglas Partners RAP states the above remediation method:  
*"will remove impacted fill/soil from the site and remediate localised groundwater impacts (if any) such that long-term management of contamination on the site is not required."*

This approach is supported, and conditions are recommended at **Attachment A** to confirm this stated outcome is achieved for the site.

Subject to the completion of this work and subsequent validation, the site should be suitable for the proposed development.

It is noted that the Douglas Partners RAP also proposes bioremediation of any hydrocarbon impacted soils on site prior to disposal to landfill. Onsite bioremediation in an inner-city location can create odour impacts beyond the site boundaries. With the proximity of the site to a large and increasing population in both residential and commercial land uses, there is potential for any impacts beyond the boundary of the site to affect the local community.

Although controls have been recommended by the applicant and Douglas Partners to minimise potential amenity impacts on air/odour on surrounding land uses, it is considered prudent to avoid this potential by prohibiting the activity on site which is recommended within the proposed conditions of consent included at **Attachment A**.

Overall, subject to the recommended conditions of consent at **Attachment A**, including remediation, it is considered that Section 4.6 of Resilience and Hazards SEPP has been satisfied as it is considered that the land is suitable in its contaminated state, with its required remediation, for the purposes for which the development is proposed to be carried out.

*State Environmental Planning Policy (Transport and Infrastructure) 2021*

## Chapter 2: Infrastructure

The proposal was referred to Transport for NSW and also assessed by CN's Senior Development Engineer. The submitted development falls under several sections of SEPP (T&I) as detailed below:

### Section 2.118(2) - Development with frontage to classified road

The subject site has three street frontages being Hunter, Railway and Tighe Streets. Hunter Street is a classified road.

Section 2.118(2) requires:

- "(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
  - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of....."*

The design and layout of the proposal only utilises Tighe Street for its direct vehicular access and has no access to a classified road (i.e. Hunter Street) and, as such, s2.118(2) is considered to be satisfied.

### Section 2.119(2) & (3) – Impact of road noise or vibration on non-road development

The proposal has submitted a noise assessment report prepared by Muller Acoustic Consulting (October 2021) which has been assessed by CN's Environmental Health Co-ordinator and is considered to be acceptable subject to conditions of consent recommended at **Attachment A**.

Section 2.119 (2) and (3) require that a consent must ensure that where development is for residential accommodation "...that the following LAeq levels are not exceeded—

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time."*

The report considers noise impacts from surrounding infrastructure and activities (road, rail, light rail, licensed venues) on the proposed development, including the acoustic requirements under s2.119(3). In addition, it considers the impact of the development on surrounding receivers, including construction and operational noise impacts.

Recommendations are made in the report in to minimise noise impacts for both the proposed development residential use as well as the existing adjacent residential\commercial receivers. These acoustic recommendations are incorporated within recommended conditions of consent at **Attachment A**.

Overall, road noise and vibration impacts on the proposed dwellings meets the acoustic standards under s2.118 (3) and it is considered that these provisions have been satisfied.

### Section 2.121(4) - Traffic-generating development

The proposal has been referred to TfNSW as traffic generating development under Schedule 3, s2.121(2).

TfNSW provided its final advice supporting the proposal on the 6 June 2022 following the submission of additional information from the applicants including an extended traffic model which includes the bus interchange and Stewart Avenue.

A summary of the TfNSW advice is that *the additional traffic modelling provides an overview of bus efficiency along Hunter Street. It is noted that the model outputs have no direct implications for the proposed design or suitability of the subject development. Based on the above comments, TfNSW does not object to the proposed development proceeding.*"

The overall proposal, including the advice of the TfNSW, has been assessed by CN's Senior Development Engineer and is considered to be acceptable subject to the conditions of the consent recommended at **Attachment A**.

#### Newcastle Local Environmental Plan 2012 (NLEP 2012)

The relevant local environmental plan applying to the site is the NLEP 2012. The aims of the NLEP 2012 under Clause 1.2(2) include:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to respect, protect and complement the natural and cultural heritage, the identity and image, and the sense of place of the City of Newcastle,*
- (b) to conserve and manage the natural and built resources of the City of Newcastle for present and future generations, and to apply the principles of ecologically sustainable development in the City of Newcastle,*
- (c) to contribute to the economic well being of the community in a socially and environmentally responsible manner and to strengthen the regional position of the Newcastle city centre as a multi-functional and innovative centre that encourages employment and economic growth,*
- (d) to facilitate a diverse and compatible mix of land uses in and adjacent to the urban centres of the City of Newcastle, to support increased patronage of public transport and help reduce travel demand and private motor vehicle dependency,*
- (e) to encourage a diversity of housing types in locations that improve access to employment opportunities, public transport, community facilities and services, retail and commercial services,*
- (f) to facilitate the development of building design excellence appropriate to a regional city.*

The proposal is considered to be consistent with these aims.

#### *Zoning and Permissibility (Part 2)*

The site is located within the B3 Commercial Core pursuant to Clause 2.2 of the NLEP 2012 (**Figure 9** below). The proposal is permitted with consent within the B3 zone under Clause 2.3 as combination of *commercial premises* and *shop top housing* (as extracted below).

**Figure 9 – Zoning map**



Source – Applicants Statement of Environmental Effects (October 2021)

**commercial premises** means any of the following—

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

**shop top housing** means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

**Note—**

Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

It is noted that the land use components at the ground level of the proposed apartments (i.e. shop top housing) consist of retail premises/food and drink premises.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- 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.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- i. The proposed development provides an integrated mix of office and retail premises, including opportunities for food and drink premises, that will serve the needs of the community and the future residents.



- ii. The office and retail premises proposed will encourage employment opportunities in the area.
- iii. The proposal is well placed within a prime central location to utilise public transport with both multiple bus routes nearby and the Newcastle Interchange. The site is well located to encourage both walking and cycling.
- iv. The development is considered to provide a good mix of commercial and retail floor space within a mixed use development.
- v. The proposed development is consistent with the strategic planning goals for the Newcastle City Centre and the promotion the Newcastle West area as the regional business, retail and cultural centre of the Hunter region.
- vi. It is considered that the proposal, having regard to the developments assessment by CN's UDRP and its design response to ADG, meets the intended strategic planning outcomes for the site in relation to retention and creation of view corridors.

#### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 6** below.

**Table 6: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Height of buildings (Clause 4.3(2))	99 metres (with operation of cl7.5(6))	98.11 metres	Yes
FSR (Clause 4.4(2)) combined with 7.5(6)	5.5:1 (21,752.5 m <sup>2</sup> )	5.45:1	Yes
Exceptions to development standards (Clause 4.6)	No variations proposed		Yes
Land acquisition (Clause 5.1/5.1A)	None Applicable		Yes
Heritage (Clause 5.10)	<ul style="list-style-type: none"> <li>• Dairy Farmers Building (I505) – Local Item</li> <li>• Heritage Items within the vicinity of the subject site:               <ol style="list-style-type: none"> <li>i. 'St Josephs Convent and Sacred Heart Church and School', I503</li> <li>ii. 'Cambridge Hotel', I502</li> <li>iii. 'Lass O'Gowrie Hotel', I691</li> </ol> </li> </ul>	The proposal retains the existing heritage item on site and is considered acceptable with regard to the heritage items within the vicinity of the site and the heritage conservation area. A detailed heritage assessment is provided below.	Yes

	<ul style="list-style-type: none"> <li>• Newcastle Heritage Conservation Area</li> </ul>		
Flood Planning (CI5.21)	Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied with development in regard to the flood environment.	The proposal has been assessed by CN's Senior Development Engineer and is considered to be acceptable subject to conditions of consent recommended at <b>Attachment A</b> .	Yes
Acid sulphate soils (Clause 6.1)	Preparation of an acid sulfate soil management plan or demonstration no acid sulfate soils present.	Applicants have submitted a satisfactory acid sulfate soil management plan.	Yes
Earthworks (Clause 6.2)	<p>Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <p>(a) <i>the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,</i></p> <p>(b) <i>the effect of the proposed development on the likely future use or redevelopment of the land,</i></p> <p>(c) <i>the quality of the fill or the soil to be excavated, or both,</i></p> <p>(d) <i>the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p>(e) <i>the source of any fill material and the destination of any excavated material,</i></p> <p>(f) <i>the likelihood of disturbing relics,</i></p> <p>(g) <i>the proximity to and potential for adverse impacts on any watercourse, drinking</i></p>	The extent of proposed earthworks is commensurate with that required to construct the proposed mixed use development having regard to the slope of the land and the overall size and height of the proposal. It is considered that the proposal is acceptable in terms of its impacts. The quality of any fill material to be imported to the site can be controlled by appropriate conditions of consent.	Yes

	<p><i>water catchment or environmentally sensitive area.</i></p> <p><i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p>		
Newcastle City Centre objectives (CI7.1)	That development demonstrates it meets the Newcastle City objectives	The proposal is considered to be consistent with the intended strategic planning outcomes for the Newcastle City Centre. A detailed assessment in regard to the objectives is provided below.	Yes
Minimum building street frontage B3 zone (CI7.3)	Minimum of least one street frontage being at least 20 metres	Proposal has three street frontages of 75m, 54m, and 74m respectively	Yes
Building separation (24 metres) (Clause 7.4)	A proposed building must be erected so that the distance from the building to any other building is not less than 24 metres at 45 metres or higher above ground level.	<p>The 24 metre requirement applies both to external sites and internally where multiple structures are proposed.</p> <p>The current proposal at Level Five (height of 18.5 metres approx.) and higher meets the requirements providing 24 metres between the proposed towers.</p> <p>Additionally, the proposal includes a 12 metre setback to the neighbouring site to the east which would allow this site to be developed into the future 'sharing' the 24 metre separation between the two sites which is considered acceptable. (NB The neighbouring site currently operates as a Kennards self-storage use and the existing buildings are well below the 45 metres height trigger that applies.</p>	Yes
Design Excellence (Clause 7.5)	The proposal, being over 48 metres in height, triggers the requirement for an architectural design competition (design excellence competitions) under Clause 7.5(4) of the NLEP 2012.	The NSW Government Architect, who are responsible for the Director-Generals requirements regarding design excellence competitions, have provided the applicants a written waiver in relation to the requirement for architectural	Yes

	Notwithstanding this, a competition is not required where certified by the Director-General in writing.	design competition on the 21 July 2021 confirming a competition is not required in this instance.	
Active street frontages in Zone B3 Commercial Core (Clause 7.6)	Land within the B3 zone must provide an active street frontage.	It is considered that the proposal provides active street frontages to both Hunter and Railway Streets.	Yes
Floor space ratio for certain development in Area A (Clause 7.10)	<p>Cl7.10 acts to alter the applicable FSR for development within area A.</p> <p>In this instance, as the site is over 1500 m<sup>2</sup> and mixed use proposal, the applicable FSR becomes 5:1 as opposed to the 8:1 within the LEP mapping.</p> <p>It is further noted that cl7.5(6) provides a 10% bonus equating to a final allowable <b>FSR of 5.5:1</b></p>	5.45:1	Yes

The proposal is considered to be generally consistent with the LEP.

#### *Clause 5.10 Heritage Conservation*

##### Heritage context

The site is a listed heritage item, 'Dairy Farmers Building' (I505). The State Heritage Inventory provides the following Statement of Significance for the heritage item:

*Forms an important visual termination of Tudor Street and is a landmark.  
The interiors are of significance.*

The site is also located in the Newcastle City Centre Heritage Conservation Area (HCA) (C4).

Heritage items in the vicinity consist of:

- 'St Josephs Convent and Sacred Heart Church and School', I503
- 'Cambridge Hotel', I502
- 'Lass O'Gowrie Hotel', I691

##### Assessment

The application proposes the following:

- Construction of a mixed-use development comprising of two residential towers, a commercial building, retail and associated parking.

- Partial demolition of the existing heritage item.

### **NLEP 2012 - Clause 5.10 Heritage Conservation**

1) Objectives	Further information is required as noted below to satisfy this clause.
2) Requirement for consent	Clause 5.10(2) is satisfied as the application is seeking consent for the development.
3) When consent not required	Consent is required and is being sought by the application.
4) Effect of proposed development on heritage significance	The consent authority has considered the effect of the proposed development on the heritage significance of the heritage item. Further information is required as noted below.
5) Heritage assessment	A Statement of Heritage Impact prepared by Heritas has been submitted with the application.
6) Heritage conservation management plans	A conservation management plan (CMP) is not required for this application.
7) Archaeological sites	The site is not a listed archaeological site on Schedule 5 of the NLEP 2012 and is not identified as a potential archaeological site in the Newcastle Archaeological Management Plan 1997. A condition is recommended advising the applicant of their obligations under the <i>Heritage Act 1977</i> (NSW) regarding unexpected relics.
8) Aboriginal places of heritage significance	An AHIMS search found zero Aboriginal objects in the vicinity of the site. A condition is recommended advising the applicant of their obligations under the <i>National Parks and Wildlife Act 1974</i> .
9) Demolition of nominated State heritage items	The subject site is not a nominated State heritage item.
10) Conservation incentives	The application does not seek to utilise this clause.

### **NDCP 2012 – Section 5.05 Heritage Items**

5.05.01 General principles	<p>Heritage items are required to be retained and adaptively reused. It is noted that the application includes demolition of most the existing building and retention of the central clock tower.</p> <p>The HIS has included an assessment of significance of the existing structures on the site and found that the central clock tower is the only remnant of the original symmetrical 1938 Dairy Farmers building. The two 'wings' on either side of the clock tower were significantly altered throughout the 20<sup>th</sup> century before being demolished and rebuilt in their current form in the 1990s. Documentary and physical evidence to support this consists of:</p> <ul style="list-style-type: none"> <li>- Architectural plans dated 1995 that indicate partial demolition of the site, including the two wings, and construction of new wings with aluminium framed windows, reinforced concrete beams, new brickwork capping detail. The plans show retention of the central clock tower and reconstruction of some details including the glass brick bottle window and corbelled brick capping.</li> </ul>
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	<ul style="list-style-type: none"> <li>- Joints between the clocktower and the wings not evident in original elevations or photographs of the building.</li> <li>- Change in facade material with the central clocktower featuring faience tiles and the wings featuring a rendered/textured finish.</li> <li>- Comparison of photographs throughout the 20<sup>th</sup> century indicating sequential changes to the appearance and detail of the building.</li> </ul> <p>The HIS notes that the retention of the central clock tower during the redevelopment of the site into the existing car yard in 1995 is a reflection of the esteem held for the 'Dairy Farmers Corner' building and its status as somewhat of an icon in the Newcastle West area.</p> <p>Based on the above, it is considered that demolition of the adjoining 'wings' will not involve removal of significant heritage fabric associated with the original Dairy Farmers building. The remnant central clock tower is to be retained and adaptively reused in the proposed development.</p> <p>The setting of the heritage item is undergoing a rapid change evidenced through recent approvals for several multi-storey developments in the immediate context. This is reflective of the changing context of the Newcastle West End and the overarching transition from a lower scale industrial/commercial area to a new CBD. Heritage items and contributory buildings in this part of the Newcastle City Centre HCA are more sporadic and the surrounding streetscapes lack the integrity and cohesive character that is plainly evident in the majority of the precinct, as described in the Statement of Significance for the HCA. On this basis the development in principle is considered to be appropriate for the site, however it is considered that the form and massing of the podium building and co-work building directly adjoining the heritage item have the potential to overwhelm the relatively small scale of the clocktower and impact on existing views to features such as the clock faces. Concern is raised that the proximity to the co-work space, the upper levels of which butt up to the clock tower and wrap around to the west of the clock tower, may obscure existing views and detract from its landmark qualities. It is recommended that this is addressed through further refinement of the co-work space and podium by maintaining greater setbacks/alterations to building form to maintain these existing views and maximise the prominence of the heritage item as much as possible within the scheme. This will also enhance future interpretation opportunities at the site through reinstatement of neon signage, restoration of the clock faces, etc. as recommended in the submitted HIS.</p> <p>Detailed drawings have not been provided that demonstrate the proposed treatment of the retained clock tower. This should be developed in consultation with the project heritage consultant in the form of a schedule of conservation works and finishes including detail of any new openings, significant fabric and detailed elements to be retained, etc, and provided for assessment prior to determination.</p>
<p>5.05.03 Changing the use of a heritage item</p>	<p>The heritage item currently houses a car dealership. The significant original use of the heritage item is now redundant.</p> <p>Adaptive reuse of heritage items is required to minimise alteration of significant fabric and detailing, incorporate existing fabric into the</p>

	<p>development proposal, and promote the integrity of the heritage item. As described above detailed drawings indicating the treatment of the heritage item have not been provided.</p> <p>If the development is to be approved, it is recommended that preparation of a Heritage Interpretation Plan and an Archival Record of the existing building and site, including interiors, is included as a condition of consent. The HIS notes there is scope to reinstate neon signage based on photographic evidence, this is encouraged and could provide an opportunity for interpretation of the site's original use.</p>
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It is further advised that conditions have been recommended address any potential unexpected finds in relation to both archaeological deposits or relics and any Aboriginal objects.

Overall, it is considered that the proposal is acceptable in regard to heritage aspect subject to recommended conditions of consent at **Attachment A**.

#### Clause 7.1 Objectives of Part (Newcastle City Centre)

The objectives apply to the Newcastle City Centre under cl7.1:

- (a) to promote the economic revitalisation of Newcastle City Centre,*
- (b) to strengthen the regional position of Newcastle City Centre as a multi-functional and innovative centre that encourages employment and economic growth,*
- (c) to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of Newcastle City Centre, and the quality of life of its local population,*
- (d) to promote the employment, residential, recreational and tourism opportunities in Newcastle City Centre,*
- (e) to facilitate the development of building design excellence appropriate to a regional city,*
- (f) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Newcastle City Centre achieves sustainable social, economic and environmental outcomes,*
- (g) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Newcastle City Centre for the benefit of present and future generations,*
- (h) to help create a mixed use place, with activity during the day and throughout the evening, so Newcastle City Centre is safe, attractive, inclusive and efficient for its local population and visitors alike.*

The proposal is considered to be consistent with these objectives for the following reasons:

- i. The submitted proposal is directly consistent with the intended strategic planning outcomes envisioned for the Newcastle City Centre and, this redevelopment of a major inner city site, will significantly contribute to the economic revitalisation of the Centre.
- ii. The significant mixed use development proposed is considered to strengthen Newcastle City Centre as a regional centre on two interlinked outcomes. Firstly, the introduction of 182 dwellings contributes and strengthens the immediate local economic demand and activity within the centre with associated positive flow on effects economically and socially.

Secondly, the development includes 1649 m<sup>2</sup> of proposed commercial floor space being a mixture of office, retail and food and drink premises which will accumulatively add to economic and employment growth within the Centre.

- iii. The proposal is considered to protect and enhance the positive characteristics of Newcastle City Centre and will provide great amenity and the quality of life for the new population within the Centre.
- iv. The proposed development was subject of multiple refinements and reviews, with the assistance of CN's UDRP, and the final development is considered to achieve design excellence and will be a significant addition to the Newcastle City Centre.
- v. Fundamentally, the proposed development reflects the expected outcomes within the Newcastle City Centre to create a mixed use place, with activity during the day and throughout the evening. The introduction of greater population within the Newcastle Centre will contribute to the Newcastle City Centre being a safe, attractive, inclusive and efficient place for residents and associated economic benefits.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

- *Draft Remediation of Land SEPP*

A proposed Remediation of Land State Environmental Planning Policy (Remediation of Land SEPP), which was exhibited from 31 January to 13 April 2018, is currently under consideration. The proposed Remediation of Land SEPP is intended to repeal and replace the provisions of SEPP 55 (now Chapter 4 of SEPP (Resilience and Hazards) 2021) and *Contaminated Land Planning Guidelines*, and 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 list remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

The Remediation of Land SEPP is aimed at improving the assessment and management of land contamination and its associated remediation practices. The proposal is consistent with the draft provisions and is considered to be acceptable subject to conditions of consent having been assessed in detail against the current provisions of SEPP (Resilience and Hazards) 2021.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- *Newcastle Development Control Plan 2021* (the DCP)

**Section 3.03 – Residential Development**

This section applies to *residential flat buildings* and the submitted proposal meets this definition. Notwithstanding this, the operation of the ADG (SEPP 65) and Section 6.01 below would prevail over controls within Section 3.03 and also considered more applicable to the scale of the development and its City Centre location.

**Section 3.10 – Commercial Development**



The proposal has been assessed in regard to Section 3.10 and is consistent with these requirements. It is noted that the combination of the ADG (SEPP 65) and Section 6.01 below generally provide for greater controls in any respect.

#### **Section 4.01 – Flood Management**

The proposal has been assessed by CN's Senior Development Engineer and is considered to be acceptable as provided within the detailed assessed below.

##### *Introduction*

A site-specific flood impact assessment has been undertaken by Northrop Consulting Engineers. The flood study was undertaken to determine the impact from flooding and to manage the flood planning and flows around the proposed development site.

A flood certificate FL2019/00248 have also been obtained, which formed the basis of setting the flood planning levels (FPL) for the proposed development.

Generally, the development meets the DCP Flood management objectives, and the development floor levels meet the FPL requirements.

##### *Flood Impact Assessment*

Council's flood data shows that a portion of the flood waters travelling down Tudor St then flows from the southwest and turns east onto Hunter St and then a further portion of the flow leaves Hunter St and passes through the development site between the two existing buildings. Due to the flood planning levels being set at 4.4m AHD, the proposed development will form an obstruction to this current overland flow. The flows are distributed through Railway St and Hunter St with majority flows contained within the road reserve.

The overland flow on the adjoining property at 904-908 Hunter St through the existing driveway from Hunter St leading to Tighe St will be maintained as per the existing scenario. It is however anticipated that the future development at 904-908 Hunter St and, further east towards the Newcastle Interchange, will be redeveloped with designs that have zero setbacks to Hunter and, as such, the road reserve will act as the fundamental flowpath for localised flooding.

Furthermore, future Newcastle West Public Domain Plan indicates kerb extensions at the intersection of Tudor St, Hunter St and Railway St, thus the use of the road reserve as overland flowpath is further emphasised.

The submitted Flooding Impact Assessment have adequately assessed and demonstrated that the flow patterns at different flood events (including 1% AEP and PMF (extreme) events) can be sustained. The submitted modelling demonstrates that the impact will generally be contained within Hunter St, Railway St and Tighe St in the immediate vicinity of the development.

##### *Road Drainage Impacts*

However, due to the required flood planning levels, the proposed building will form a partial obstruction which will require additional drainage infrastructure to mitigate the impacts within the road reserve itself. Hunter St and Railway St frontages of the site will need the installation of new underground drainage system to assist in capturing run-off within a piped network system. The installation of new drainage will also assist in the management of any nuisance

flows during smaller events such as 10% and 20% AEP events and mitigate the nuisance for pedestrians and road users.

Furthermore, as part of the traffic issues (see comments under Traffic), it is recommended that the corner of Tighe St and Railway St be raised as a footpath continuation to allow for firstly pedestrian connection and secondly for heavy rigid truck movements. In the longer term (if 904-908 Hunter St and 924 Hunter St is developed, it is anticipated that entire Tighe St road pavement will have to be lifted to manage the overland flows and traffic movements to these sites. Footpath continuation will also alleviate run-off from Railway St entering into Tighe St.

### *Flood Planning and Risks*

The following is noted from Council's Flood Certificate:

- The PMF Flash flood level is noted as 4.40m AHD along Hunter Street frontage and 3.2m AHD on the Northern frontage.
- The 1% AEP Flash flood level is noted as 4.30m AHD along Hunter Street frontage and 3.1m AHD on the Northern frontage.
- Ocean PMF is noted as 3.40m AHD and the site is not affected by 1% AEP ocean impacts.
- Risk to life is noted as L2 (low risk).
- Risk to property is noted as H2 (P2).
- The site is not a flood storage area.

Commercial/retail units, lobby area and entry points along Hunter St frontage have been designed at 4.40m AHD, which is to PMF flood level. Retail and lobby areas on Railway St frontage have been designed at 6.4m AHD and 3.64m AHD, which is to the relevant PMF level at each location. Tighe St frontage entries to the site are set at minimum 3.3m AHD. Service areas at set at 3.4m AHD.

The proposed floor levels are either set at PMF level and/or above the flood planning level thus providing adequate freeboard protection for the proposed development.

Vehicular access from Tighe St and pedestrian accessibility from Railway and Hunter St is considered to be appropriately designed to provide direct access to the site.

The flood risks at the site are noted to be generally low risk. Proposed floor levels being set at approx. PMF level and available Public Domain Laneway open areas will provide a refuge point if local roads are inundated.

### Conclusion

The proposed development has considered and addressed the impacts of flooding and the risks associated with flooding on the site and the surrounding areas. Issues that were raised by CN have been subsequently addressed by Northrop with a subsequent updated flood impact assessment being provided.

The proposed development complies with Council's DCP for Flood Management subject to the recommend consents of consent at **Attachment A**.

## **Section 4.04 – Safety and Security**

The proposal is considered to be adequate in relation to the provisions of Section 4.04 and Crime Prevention Through Environmental Design (CPTED).

The development has been designed with a good level of casual surveillance and there are limited opportunities for hidden areas within the public spaces. The layout includes several retail premises which will encourage activity during business hours and potentially into the evening (where food and drink premises may trade later).

It is advised that CCTV will also be utilised within the public domain areas (i.e. the internal walkway) plus within the carparking areas.

Access to the residential components of the proposal will be via security swipe passes ensuring appropriate access control.

It is considered that the layout of the development provides clear separation between public and private areas.

The combination of CPTED measures is such, that the overall proposal is considered to be acceptable in relation to this section.

#### **Section 4.05 – Social Impact**

The proposal is acceptable in terms of social and economic impacts.

The development is consistent with the intended strategic planning outcomes for the B3 Commercial Core zone and the Newcastle City Centre generally.

It is expected that the proposal during construction, and in operation, would provide positive economic inputs to the broader Newcastle area and beyond. The proposal will increase the available housing within the City Centre and, by association the additional population will contribute to economic vitality.

The proposed development is considered to be acceptable in terms of the above Section of the NDCP 2012.

#### **Section 5.01 – Soil Management**

The extent of proposed earthworks is commensurate with that required to construct the proposed mixed use development having regard to the slope of the land and the overall size of the proposal. It is considered that the proposal is acceptable in terms of its impacts. The quality of any fill material to be imported to the site can be controlled by appropriate conditions of consent recommended at **Attachment A**.

The proposed development is considered to be acceptable in terms of the above Section of the NDCP 2012.

#### **Section 5.02 – Land Contamination**

Land contamination has been investigated and is considered suitable as detailed under SEPP (Resilience and Hazards) 2021 within the report above.

The proposed development is considered to be acceptable in terms of the above Section of the NDCP 2012.

#### **Section 5.03 – Vegetation Management**

The proposal includes the removal of a small amount of vegetation from the northern side of the site consisting of shrubs.

There are two existing street trees at the Hunter Street frontage of the which CN's City Greening section has confirmed are healthy and should be retained. City Greening has also advised that additional street trees should be planted as part of the proposal if supported.

The development proposes the removal of the two street trees as part of the application. It is considered that the removal of these two street trees should be supported on the grounds of urban design (UDRP), heritage and engineering conflicts (i.e. conflict between tree retention and the reconstruction of footway, services and utilities). It is recommended that two trees be planted as compensation for the removal of the street trees.

The proposed development is considered to be acceptable in terms of the above Section of the NDCP 2012.

#### **Section 5.04 Aboriginal Heritage, Section 5.05 Heritage Items & Section 5.06 Archaeological Management**

These matters were addressed under Clause 5.10 of the NLEP 2012 above.

The proposed development is considered to be acceptable in terms of the above Section of the NDCP 2012.

#### **Section 6.01 – Newcastle City Centre**

The proposal falls within the Newcastle City Centre map under Section 6.01 of the NDCP 2012 and, as such, has been assessed against the associated controls.

The proposal is located within the 'West End' character area under the section and is considered to be *"the western gateway to Newcastle's city centre and is an area of unrealised potential"*.

#### ***Street Wall Height & Building Setbacks***

This section provides for two contradictory street wall heights largely due to the effect of the site having three street frontages. The Hunter Street frontage intends a street wall height of 8 metre with a 6 metre setback, where as the Railway and Tighe Street frontages would be a 16 metre height with a 6 metre setback. It is further noted that the DCP encourages strong corner elements and this specific site is complicated by the position of the retained heritage item towards the Hunter/Railway Street corner.

Similarly, the following controls apply for side and rear setbacks:

**Table 6.01-1: Minimum setback for side and rear boundaries**

Minimum setback for side and rear boundaries		
Part of building	Side boundary	Rear boundary
Below street wall height	Nil	Nil
Between street wall height and 45m	6m	6m
Above 45m	12m	12m

It is further noted that the combination of the ADG and NLEP 2012 controls also act to constrain the design options.

The proposal has a complex combination of street wall heights and setbacks to address the various design controls while retaining the heritage item. The eastern street wall height is approximately 15.3 metres while the office building height is approximately 20.9 metres, both with variable setbacks.

In terms of the side and rear setbacks, it is really only the eastern setback which is applicable as the remaining boundaries are all street frontages. The proposal complies with the above setbacks to side boundaries (which also aligns with the ADG requirements) such that the adjoining site to the east will not have its future development impacted in this respect.

Ultimately, the proposal has been assessed and is considered to achieve a very good balance of the applicable design criteria and has been considered acceptable by CN's UDRP and the Government Architect's Office through the design process.

#### *Building separation*

Under this section of the DCP the following controls apply for buildings on the same site:

**Table 6.01-2: Minimum building separation**

Minimum building separation			
Up to 16m	Up to 45m	Above 45m	
Nil or 6m for link		9m	21m

The proposal exceeds this control as the NLEP 2012 requires 24 metres as discussed above under cl7.4.

#### *Building depth and bulk; Building exteriors; Landscaping; Public Domain*

While the DCP provides for controls in relation to these elements, the provisions of the ADG, and the assessment of the proposal by CN's URDP in relation to the overall design, prevail and the proposal is considered to be acceptable.

#### *Awnings*

The proposal provides for partial awnings along Hunter and Railway Streets as part of an increased public domain area (especially along Railway Street). While the awnings are not proposed as continuous, this is acceptable in this instance having regard to the nature of the proposed design, the corner location, increased public domain areas and, significantly, the retention of the heritage item. The larger public domain areas and retention of the existing heritage item are not conducive to a continuous awning which would be typical of a proposal, for example, that was a continuous single building frontage aligned at a zero setback. The provision of any awning in the vicinity of the heritage item would be inappropriate and inconsistent with the vertical tower form of the heritage item and the desire to improve its view angles and presentation within the streetscape.

#### *Design of parking structures*

The proposed parking is consistent with the provisions of this section of the DCP by the design positioning the proposed parking sleeved behind the Hunter and Railway Street frontages of the proposed development. It is considered that these are the prime street frontages for the development. The vehicular access and a portion of the above ground parking is located at the Tighe Street frontage which is acceptable having regard to the DCP. The parking is screened, and the Tighe Street elevation faces a current industrial style building used for automotive repair (and that site has a proposed seven storey car park currently under assessment – DA2021-01679).

#### *Views and vistas*

The proposal does not fall within any specific view or vista corridors under this part of the DCP. Notwithstanding this, the applicants have submitted a view analysis of the proposal in context of the existing and approved developments within the area. The analysis demonstrates that the development is consistent with the expected outcomes within this area of Newcastle West and nearby Wickham having regard to the overall height and form. The impacts of the proposal are acceptable and indicative of the changing skyline and vistas within the Newcastle City Centre and the overall growth in redevelopment in the area.

#### *Active Street Frontages & 'Addressing the street'*

The development provides active street frontages to Hunter and Railway Streets and creates an internal pedestrian promenade which will be an active space. The development will allow for a combination office, retail and food and drink premises. It is considered that the proposal provides a good balance of active street frontages and is acceptable in this instance.

#### *Public artwork*

Under the DCP public artwork is required to be provided where development is over 45m in height. The development is required to allocate 1% of the capital cost of development towards public artwork for development.

The proposal includes initial concepts for public art that could be potentially undertaken on site including an art installation within the heritage item and spanning parts of the pedestrian promenade. The final artwork would be subject to consideration by CN's Public Art Reference Group (PARG), and appropriate conditions of consent are recommended at **Attachment A**.

#### *Infrastructure*

The proposal is considered to be acceptable in this respect having regard to the assessment separately made under section 4.01 Flooding and section 7.06 Stormwater.

### **Section 6.02 – Heritage Conservation Areas**

These matters were addressed under Clause 5.10 of the NLEP 2012 above.

The proposed development is considered to be acceptable in terms of the above Section of the NDCP 2012.

### **Section 7.02 – Landscape, Open Space and Visual Amenity**

The proposal is considered to constitute a category 3 development under this section due to being over two million dollars in value. The documentation provided is acceptable in terms of category 3 and results in good landscape design outcomes for the proposed development. It

is noted that the landscape design has been revised in accordance with the recommendations of CN's UDRP and achieves improved results for both the pedestrian promenade at the ground floor level and the landscaped podium at Level Four.

The development is acceptable having regard to the mixture of vegetation and deep soil plantings considering the form of development and its location within the City Centre. As detailed within the SEPP 65 assessment above, the two existing street trees within Hunter Street are recommended for removal as part of the proposal but these will be required to be compensated.

Overall, it is considered that the landscape design for the proposed development is acceptable and this section of the DCP has been satisfactorily addressed.

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

#### *Traffic Review*

The submitted traffic report and subsequent traffic modelling have demonstrated that the development will not impact on the operation of the traffic signals on Hunter St/Tudor St/Railway St intersection. The proposed commercial units are expected to generate relatively low traffic movements. The development is also near the Newcastle Transport Interchange and has good access to public transport (trains, light rail and buses). Furthermore, the development is within walking and riding distances to the waterfront and the future Newcastle City Commercial hub within Newcastle West.

#### *Car Parking & Access Design*

The proposed roller door to the undercover parking area has been modified to meet the minimum setback required of 5.5m from the street frontage in accordance with section 7.03.04 of the DCP2012 and is considered satisfactory.

Vehicular access and turning diagrams have been provided for the internal vehicular access areas. The diagrams demonstrate that two cars can pass in accordance with Clause 2.5.2(c) of AS2890.1. The internal car parking and turning areas are considered to comply with AS280.1.

Additional safety features such as mirrors, line marking and signage for driver awareness can be incorporated to further enhance the safety within the internal car parking areas.

NSW Government guide to Urban Freight Task Toolkit Master Document references the integration of facilities to support the trending preference for on-line shopping and food delivery services for residential and commercial development. The proposed car parking on the ground level is also for commercial and visitor use, and it is noted that the guide approach will preclude deliveries by smaller vehicles for a faster paced delivery, (used predominantly by grocery home delivery providers and private parcel delivery).

The submitted Traffic and Parking Report Addendum prepared by Intersect Traffic indicates that such deliveries can be accommodated in the Commercial/Visitor carparking spaces.

The Ground and Upper Ground floors have a three metre height clearance which can accommodate smaller type service vehicles and is considered to be acceptable.

#### *On-site deliveries and servicing*



The development is proposed to be serviced by Medium Rigid Vehicle (MRV) and turning/swept path analysis indicates that the on-site Loading/Delivery Bay can be satisfactorily accommodated for MRV being accessed via Tighe St.

In response to recommendations that the development be modified to integrate facilities to support the trending preference for on-line shopping and food delivery services for the residential component, the amended plans have included a small locker (parcel area) within the lobby areas on the Ground Level. This Locker Room is accessed from the basement carpark and the TPA Report Addendum states that such deliveries can be accommodated in the Commercial/Visitor carparking spaces. It is noted that this approach will preclude deliveries by Small Rigid Vehicles as discussed above and the loading bay provides a secured area to carry out such deliveries.

### *Parking Demand*

The assessment below has been made having regard to CN's adopted DCP2012 – 7.03 (Traffic, Parking and Access). It is noted that CN has recently resolved to exhibit amendments to this section of DCP and such amendments may result in different parking requirements into the future but these possible amendments cannot be relied on for this assessment.

#### *a) Car Parking*

It is noted that the Gross Floor Area of the Commercial/Retail/Office spaces has reduced from 1,944 m<sup>2</sup> to 1,649 m<sup>2</sup> as a result of minor changes to tenancy areas for the retail and two food/beverage tenancies on the ground floor as well as the deletion of the previous Level 5 office space. The number of residential dwellings was reduced from 183 to 182 (two top level units combined into one).

The required number of car, visitor, motorbike and bicycle parking associated with the amended design has been assessed in accordance with DCP2012 – 7.03 (Traffic, Parking and Access) and are calculated as per **Table 7** below. Numbers shown in bold italic text are the Applicant's previous proposed values. It is noted there is a minor discrepancy in the total number of carparks required as calculated by **Table 7** (228) compared to the number (226) suggested in TPA Report Addendum (refer **Table 8** below).

Notwithstanding, the total number of carpark spaces proposed is 238.

**TABLE 7**

Proposed Use	Calculation	No. required as per DCP <sup>#</sup>	No. proposed
Resident carparking	(36x0.6) +(128x0.9) +(18x1.4)	162	198 <sup>1</sup> ( <b>171</b> )
Residential visitor carparking	1 (1 <sup>st</sup> 3 units) +(180 units / 5)	37	See comments
Commercial carparking	1,649 m <sup>2</sup> (GFA) / 60 (City Centre)	27.5 (say 28)	See comments
Total Carparking		227.9 (say 228)	238
Resident bicycle parking	183 units / 1	183	148 <sup>1</sup> ( <b>110</b> )
Visitor bicycle parking	183 units / 10	18.3	20 <sup>2</sup> ( <b>20</b> )

Commercial bicycle parking	40 staff / 20	2	8 <sup>3</sup> <b>(2)</b>
Motorbike parking	233 car spaces / 20	11.65	10 <b>(16)</b>

# Based on current adopted DCP rates.

1. Total counted on Upper Ground and Levels 1, 2 & 3
2. Total counted on Ground Floor (Plaza and Carpark)
3. Adjacent the designated end of trip room for Commercial / Retail lot on Ground Floor

It is noted that the amended design has now assigned the majority of the previously unassigned 28 spaces to the residential dwellings (thus proposed increased from 171 to 198 spaces for residential use). This has resulted in reducing the total number of spaces available for Residential Visitor and Commercial use to 40. The combined deficiency for Residential Visitor and Commercial has therefore increased to 25 spaces (or 38.5%) of the 65 spaces needed to satisfy the DCP as adopted.

**Table 8** below is extracted from the TPA Report Addendum and shows the proposed revised carparking allocations on each level.

**Table 8**

	COMMERCIAL / VISITOR	COMMERCIAL	RESIDENTIAL
LEVEL 3	-	-	55
LEVEL 2	-	-	56
LEVEL 1	-	-	61
UPPER GROUND	-	10	26
GROUND	21	9	-
<b>SUB TOTAL</b>	<b>21</b>	<b>19</b>	<b>198</b>
<b>TOTAL</b>	<b>238</b>		

Source: TPA Report Addendum Report

The 26 spaces on Upper Ground Level generally represent the previously identified 28 unassigned spaces and are those which the Applicant now seeks to assign to residential dwellings. These same 26 spaces also represent almost the exact number of spaces deficient from the combined Residential Visitor and Commercial parking requirements.

The combined total of all spaces on Ground and Upper Ground level is 66 which would satisfy the combined minimum requirements for both Residential Visitor and Commercial parking and includes a one space oversupply compared to the DCP.

As can also be seen in **Table 8** above, there is a total of 172 spaces proposed across Levels 2 to 4 and this number is sufficient to accommodate all spaces (with a small oversupply of 8 spaces) associated with Residential dwellings necessary to comply with the DCP.

From the vehicle swept paths provided so far, it is expected that most, if not all, kerbside car parking across the sites Railway St and Tighe St frontages will be removed. It is considered that the oversupply of parking within the development site will adequately offset this loss.

An assessment of the car parking and inherent proposed parking variations has been undertaken and is considered to be reasonable in this instance subject to the criteria below and recommended conditions of consent at **Attachment A**. It is noted that the total number of parking spaces proposed is still in excess of the minimum number required under the DCP but the allocation of those spaces by break down of use and generation effectively includes variations as follows within **Table 9**:

**Table 9**

Proposed Use	No. required as per DCP	No. proposed	Variations (No)	Variations (%)
Resident car parking	162	198	36 (excess)	22% (excess)
Residential visitor car parking	37	19	18 (below)	48.6% (below)
Commercial car parking	27.5 (say 28)	21	6.5 (below)	23.6% (below)
Total Carparking	227.9 (say 228)	238	10 (excess)	10% (excess)

It is further advised that the amending of the parking allocation, particularly the residential parking above the minimum required, constitutes additional gross floor area (FSR) and this has been incorporated within the FSR assessment above.

It is further noted that 19 of the commercial spaces are designed as stacked spaces and, as such, must be allocated to commercial units. It is intended that the remaining commercial/residential spaces (i.e. 21 spaces) be available as 'general' visitor spaces not specifically allocated to residential or commercial uses and utilised on a first come basis. This will allow greater utilisation of the spaces over time as demand varies through the day and week.

The proposed development in terms of car parking is considered to be acceptable subject to the recommend consents of consent at **Attachment A**.

*b) Motorbike and Bicycle Parking*

**Table 7** shows that the provision for motorbike parking been reduced from 16 to 10 spaces and this has results in a 2-space deficiency under the DCP. This is considered acceptable.

The amended proposal has increased nominated bicycle storage cages from 110 to 148, a deficiency of 35 spaces (or 19.1%). A further 14 storage cages not specifically identified for bicycle storage are shown, notwithstanding they are of adequate size. Taking these into account reduces the deficit to 21 (or 11.5%) which is considered acceptable.

A further 8 bicycle parking locations are associated with the End of Trip Facilities on Ground Level and a further 16 spaces are shown within the public plaza area and 4 within the Ground Floor carpark area. This is considered acceptable.

*c) Plugin Electric Vehicle Charging*

It appears that the draft *Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021*, relating to the draft *State Environmental Planning Policy (Design and Place) 2021* may not be proceeding at this time. Notwithstanding, the development on the ground floor has noted 3 EV car parking bays. It is considered appropriate that conditions of consent be included in any consent requiring the provision of charging facilities for electric vehicles (cars and bicycles) to 'future proof' the building. Appropriate conditions of consent are recommended at **Attachment A**.

**Section 7.06 – Stormwater & Section 7.07 – Water Efficiency**

## *Introduction*

Northrop Consulting Engineers have been engaged by the applicants to undertake the stormwater design for the development. A stormwater management strategy has been provided with the submitted civil plans and progressive responses to CN comments have been addressed by Northrop. The stormwater management strategy and revised submitted stormwater design generally meets Council's DCP, Technical Specifications, water sensitive urban design (WSUD) principles and industry standards.

## *Stormwater Management Strategy*

The stormwater management strategy for the development is generally being Stormwater Reuse, Quantity and Quantity controls and discharge connection to the street network provisions. The development provides for the following features for stormwater management:

- A 91 Kilo Litre underground on-site detention (OSD) tank with backflow controls
- A 15 Kilo Litre underground stormwater reuse tank which includes
  - Stormwater reuse for ground floor toilets, commercial and external uses
  - Stormwater reuse to the 4<sup>th</sup> Floor Communal area use, which also includes provisions of additional two toilet facilities. Stormwater reuse connection will be via pump systems including connections for landscape irrigation purposes.
  - Stormwater reuse will be for both hot and cold-water reuse within the ground floor and 4<sup>th</sup> floor.
- Overflows from the 15KL reuse tank will be directed to the 91 KL OSD for run-off control.
- Backflow non-return valves to protect both the tanks from any potential backflows.
- 7 x Spel type filters (or similar) installed within the 91 KL tank to treat stormwater from the development
- Stormwater discharge connection to Tighe St kerb inlet pit.

## *Stormwater Quality and Quantity*

Stormwater quality assessment determining the impact on the ecology of the downstream watercourse has been undertaken by Northrop. The performance of the stormwater strategy has been assessed against the DCP requirements and used the MUSIC software targets set in the Council's Technical Manual and the MUSIC Link. The proposed treatment methodology meets Council requirements and stormwater treatment targets with the Water sensitive urban design (WSUD) fundamentals being applied to the design.

Stormwater quantity analysis confirms the provision of the 91 KL on-site detention tank to mitigate stormwater impacts on the downstream properties and local road drainage network. The stormwater quantity modelling has been undertaken using the DRAINS software to stimulate the runoff from the catchment for both the pre and post development. The design intent was to ensure that the pre-developed conditions do not exceed the post-development run-off under proposed development conditions.

The development stormwater system has been designed to cater for the 1% AEP events with overflow paths and backflow controls provided to cater for higher flows.

## *Maintenance & Monitoring and Safety*

The proposed stormwater structures will require regular monitoring and maintenance to ensure the system is functional. A detailed monitoring and maintenance plan will need to be provided. This can be addressed at the Construction Certificate stage.

#### *Stormwater Discharge Connection*

Discharge from the development stormwater is proposed to be connected to the existing kerb inlet pit on Tighe St. Additional information provided by Northrop confirms that the existing pipe crossing within Tighe Street Road reserve consist of 2 x 225 mm pipes. Backflow valves devices are proposed to prevent backflow into the proposed development's stormwater system.

The subsequent information provided by Northrop Consulting Engineers has demonstrated that the proposed stormwater discharge is feasible.

However, it is noted that the underground road drainage network, which the proposed development connects to within Tighe St, passes through the northern part of building at 904-908 Hunter St. CN generally does not support road drainage to pass under a building. Further to this, any future development of 904-908 Hunter St could potentially be impacted by easements and height restrictions for maintenance purposes by CN. Alternatively, CN may consider the pipe to be removed as it may not be required to drain Tighe St road system following a full redesign of Tighe St. The drainage on Tighe St only serves a small section of the road surface area and the proposed new development.

To ensure that the future development at 904-908 Hunter St is not restricted by asset management issues associated with CN's drainage pipe, such as height restrictions, structural adequacy, and stormwater easements, and in considering the potential impacts this may have on future development potential, it is recommended the current proposed development stormwater discharge outlet be redesigned. This is to allow for either design connections to the eastern kerb inlet pit on Tighe St and/or together with the internal design being appropriately amended to ensure that current design drainage is not dependent on this pipe connect and will be futureproofed if this drainage pipe over 904-908 Hunter St is removed into the future.

Conditions of consent are recommended at **Attachment A** addressing amendments required to the detailed drainage design which is to be undertaken in consultation with Council at the Construction Certificate stage.

#### *Provision of additional road drainage Infrastructure*

As noted in the Flood Management Section above, road drainage infrastructure and associated drainage upgrades must be provided to mitigate the flooding and nuisance stormwater impacts in the immediate vicinity of the subject site. Hunter St, Railway St and Tighe St detailed road drainage design must be further addressed as part of the required road works as a separate approval under Section 138 Roads Act and can form part of the public domain works.

#### *Conclusion*

The principles of WSUD and the requirements of the DCP have been addressed by the development. The submitted stormwater plans and supporting documents in response to CN concerns have demonstrated that the development can be sustained. The discharge from the development will not impact of the downstream drainage system and the proposed system can be maintained in the long term. Additional detailed stormwater outlet connection re-design must be undertaken to futureproof the design and associated potential impacts on the 904-908 Hunter St site.

The additional local road drainage infrastructure will be required as part of the flooding mitigation and improvements around the site at the separate road works approval stage (i.e. s138) which will further assist in managing the stormwater run-off impacts around the subject site.

The proposed development complies with Council DCP for Stormwater Management subject to the recommend consents of consent at **Attachment A**.

## **Section 7.08 – Waste Management**

The proposal has been assessed having regard to Section 7.08 and is considered to be adequate.

Waste collection for the residential, commercial and retail has been proposed via Tighe St loading bay vehicular access and is proposed via private collection. Bin storage areas on the Ground Floor area are adjacent the loading bay. The development is proposed to use Medium Rigid Vehicles (MRV) to service the development via the service bay being accessed from Tighe St. Waste bin collections are proposed to be undertaken from the service bay.

Although, no objection is raised to the proposed development being serviced for waste collection by private contractors, it is noted that under the Local Government Act, development must also be capable of having their waste serviced by CN (regardless of the intention to use private contractors). These requirements were indicated to the applicant in CN's Pre-DA advice and requests for information during the assessment of the current application.

Based on advice from CN's Waste Management the following waste collection criteria applies in terms of CN's service:

- Heavy Rigid Vehicle (HRV) truck access is to be provided for waste collection servicing purposes by CN.
- Waste collection storage area is to be appropriately sized and designed to ensure collection can be done easily (that is, with good access and least travel distance) and in a good timeframe to minimise disruption to the local traffic, residents while ensuring a safe work environment.
- The applicants are to attain a separate agreement with CN Waste Management team to access the site for waste collection.

In relation to the first dot point above, the submitted turning diagrams by Northrop Dwg No C06.06 indicates that the HRV truck will encroach over the footpath at the corner of Tighe St and Railway St. The HRV turning into the service bay also seems to be inadequate, with encroachment onto the side walls (width issue) and access generally.

Our Waste management team have indicated that CN HRV trucks can enter via Railway St and reverse into Tighe St as a worst-case scenario to collect waste. However, there will have to be adequate length available to park the HRV truck in front of the service bay and the residential bin storage access gate will have to be located as close to the street as possible.

Based on the submitted plans and HRV turning diagrams, it is recommended that the following design changes be carried out at construction certificate detailed design stage in consultation with the CN to allow for HRV access onto Tighe St:

- The Tighe St intersection to Railway St be designed as a footpath continuation to allow for additional width for HRV to turn. Pedestrian safety design elements must be considered as part of the design.
- The architectural fins at the corner of Tighe and Railway St be designed to allow for additional width for the footpath continuation, for sight lines and for pedestrian movement.
- The proposed wall at the service bay be removed between the roller gate and door and a full width roller door with 4.5m height clearance be installed to allow for HRV access.
- The area in front of the commercial waste storage area be kept clear to allow for HRV to park within the site.
- The driveway width for the service bay be increased in width to accommodate for a HRV truck to be parked in front of service loading bay.
- An additional roller door access be provided for the Residential Waste storage area, being located adjacent to the Loading Bay and being located close to the Tighe St property boundary for ease of access for waste pick-up from the street.

The proposed development is acceptable in terms of waste management subject to the recommend consents of consent at **Attachment A**.

### **Section 7.09 – Advertising and Signage**

The majority of the signage concepts for the proposal are considered to be acceptable. Considering the relative position of the existing heritage item, and that the site is within the Newcastle Heritage Conservation Area, the large area signage which wraps around the Hunter/Railway Street corner of the building is not acceptable. It is recommended that the size of the signage be reduced. While it would be preferable to reduce both the height and length of both of these signs, it is considered practical and reasonable to reduce the height to 2.4 metres while allowing the length to remain unchanged. This allows sufficient scope to provide commercial signage but decreases its size relative to the position of the heritage item.

It is similarly considered reasonable to restrict all illumination of these two signs to the hours of 7am to 10pm, and that illumination levels are consistent with that permissible under the DPE Illumination and Reflectance requirements. Appropriate conditions of consent are recommended in this respect at **Attachment A**.

### **Section 7.10 – Street Awnings and Balconies**

As detailed under Section 6.01 above, the proposed street awnings are considered to be acceptable in context of the overall design and heritage aspects of the site.

### **Contribution Plans**

The following Local Infrastructure Contributions Plans are relevant pursuant to Section 7.18 of the EP&A Act noting that the proposal is recommended for approval (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Section 7.12 Newcastle Local Infrastructure Contribution Plan 2019 (Update December 2020) (NLICP)*

It is further noted that the proposal is not entitled to any exemptions or reductions under section 1.6 of the Plan.



**(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the development.

**(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS 2601.

These provisions of the 2021 EP&A Regulation have been considered and would normally be addressed by conditions of consent where the proposal was recommended for approval.

**3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the remaining Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – As discussed under the NLEP 2012, NDCP 2012 and UDRP assessments, the proposal is acceptable in terms of its urban design, character, streetscape, bulk, scale and visual appearance impacts. The proposal is considered an appropriate and expected outcome within the Newcastle West portion of the Newcastle City Centre.
- Access and traffic – The proposal as discussed above under the NDCP 2012 assessment, is considered to be satisfactory in terms of traffic, parking and access.
- Public Domain – The proposal, as discussed above under the NLEP 2012, NDCP 2012 and UDRP assessments, is satisfactory in terms of the public domain especially in regard to streetscape, public domain and urban design outcomes. The proposal represents a significant redevelopment of a site which had most recently been used as a car sales yard.
- Utilities – It is considered that the proposal is adequate in terms of utilities. Due to the scale and nature of the proposal, upgrades of services such as electricity (e.g. substations) will need to be undertaken which is typical for developments of this size.
- Heritage – A heritage assessment has been undertaken under cl5.10 of the NLEP 2012 above.
- Water/air/soil impacts – Land Contamination and earthworks were addressed under SEPP (Hazards & Resilience) and cl6.2 of the NLEP 2012 respectively above. Potential air or water quality issues that could stem from construction are addressed by recommended condition of consent at **Attachment A**.
- Flora and fauna impacts – The proposal does not have flora or fauna impacts.

- Natural environment – Earthworks were addressed under and cl6.2 of the NLEP above. The site is highly distributed currently so there are no real impacts on the natural environment.
- Noise and vibration – The proposal was assessed by CN's Senior Environmental Protection Officer.

A noise assessment report prepared by Muller Acoustic Consulting (October 2021) has been submitted with the application.

This report considers noise impacts from surrounding infrastructure and activities (road, rail, light rail, licensed venues) on the proposed development. In addition, it considers the impact of the development on surrounding receivers, including construction and operational noise impacts.

Recommendations are made in the report in to minimise noise impacts for both the proposed development's residential use as well as the existing adjacent residential/commercial receivers. These recommendations are incorporated into the recommended conditions of consent at **Attachment A**.

- Natural hazards – The subject site is not affected by bushfire prone land or mine subsidence.

The subject site is affected by land contamination, flooding, and Class 4 Acid sulfate soils.

As discussed under cl6.1 above, an acid sulfate soils management plan has been prepared (by Douglas Partners) for the proposal and is considered to be acceptable.

Land contamination has been addressed under SEPP (Resilience and Hazards) and is also considered to be acceptable.

The flooding aspects in relation to the proposal have been assessed in detail under Section 4.01 of the NDCP 2012 above and are considered to be acceptable.

- Safety, security, and crime prevention – The CPTED Principles have been considered under the NDCP 2012 assessment above.
- Social and Economic Impacts – The social and economic impacts have been considered under the NDCP 2012 assessment above.
- Construction Impacts – Appropriate conditions of consent have been recommended to address any potential construction impacts at **Attachment A**.
- Wind Assessment – A wind assessment has been undertaken by the ARUP Group in relation to the proposal. The wind assessment has addressed the wind impacts and loads for all wind directions considering the sites location and proposed design and indicates that it is suitable for pedestrians at ground level. The landscape podium level, being elevated, has been assessed as suitable for pedestrian activities plus outdoor sitting for 75% of the time. Overall it is considered the proposal is acceptable in terms of the wind assessment.

- Cumulative impacts – Overall it is considered that the cumulative impacts of the proposal are considered to be acceptable subject to conditions of consent recommended at **Attachment A**.

Accordingly, the proposal will not result in any significant adverse impacts in the locality as outlined above.

### 3.3 Section 4.15(1)(c) - Suitability of the site

The site is considered to be suitable for the proposed development, subject to the recommended conditions of consent included at **Attachment A**, having had regard to the nature of the existing site and the locality, the character of the area and the intended strategic planning outcomes for the Newcastle City Centre.

### 3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 4.3 of this report.

### 3.5 Section 4.15(1)(e) - Public interest

The proposal is considered, on balance, to be in the public interest and consistent with the planning controls (i.e. relevant SEPPs, NLEP 2012 and NDCP 2012) plus the controls under the ADG, as detailed within the report. The proposal is considered to be an expected outcome of CNs intended strategic planning goals for the Newcastle City Centre and the aim of Newcastle West forming the major focus of the Centre in terms of significant mixed commercial/residential development.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 10**.

**Table 10: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements</b> (s4.13 of EP&A Act) – the proposal did not trigger any legislation having concurrence requirements.			
<b>Referral/Consultation Agencies</b>			
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	TfNSW provided its final advice supporting the proposal on the 6 June 2022 following the submission of additional information from the applicant including an extended traffic model which includes the bus interchange and Stewart Avenue. Overall, TfNSW advised that they do	Y

		not object to the proposed development.	
Design Review Panel	Clause 28(2)(a) – SEPP 65 Advice of the Design Review Panel (DRP)	The advice of the UDRP has been considered in the proposal and is further discussed in the SEPP 65 assessment.	Y
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b> – no application was made for integrated development			

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 11**.

**Table 11: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Y
Traffic	Council's Traffic Engineering Officer reviewed the proposal in relation to traffic generation, access and car parking. These matters are considered in detail under section 7.03 of the NDCP 2012 assessment above.	Y
Environmental	The proposal has been assessed by CN's Senior Environment Protection Officer and the proposal is satisfactory subject to conditions.	Y
Waste	The proposal has is considered satisfactory as detailed under section 7.08 of the NDCP 2012 assessment above.	Y
Heritage	The proposal has been assessed by CN's Heritage Officer and is considered to be acceptable as detailed within the report above at cl5.10 of the NLEP 2012.	Y
City Greening	Recommended retention of two street trees within Hunter Street plus the inclusion of additional street trees. The removal of the existing street trees has been addressed under SEPP (Biodiversity & Conservation) 2021 above within the report.	Y

Additional issues have been considered in the Key Issues section of this report.

## 4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 17 November to 1 December 2021. A total of one unique submission raising concerns with the proposal was received. The issues raised in these submissions are considered in **Table 12** below.

**Table 12: Community Submissions**

Issue	No of submissions	Council Comments
Roadway width	1	The submitter highlighted that the width of Tighe Street was not as wide as the applicant's submitted details showed. This was investigated and confirmed, and the issue was raised within the applicant and addressed within the engineering assessment above.

## 5. KEY ISSUES

The following remaining issues are relevant to the assessment of this application and have not otherwise been addressed within the assessment report above.

### 5.1 Future Light Rail

The proposed development was referred to TfNSW in accordance with clause 104 of SEPP (Infrastructure) 2007. The response from TfNSW dated 8 December 2021 identifies that Hunter St (MR464) and Tudor St (MR604) are classified regional roads and Railway St and Tighe St are local roads with Council as the Road Authority for each of these roads.

The advice also identified that TfNSW are investigating options for the possible westward extension of the Newcastle light rail and that some of the potential routes being considered may interact with this development site. Some of these routes potentially bisect the site and would have significant ramifications for the design of any development on the subject site.

The potential extension of the light rail network within the Newcastle area is detailed within the Newcastle Light Rail Extension Strategic Business Case (Summary Report) V0.95 prepared for Transport for NSW by Corview.

Conceptually this extension would involve the light rail extending to the north west from the Newcastle Interchange, adjacent the existing heavy rail, and then continuing towards the west via one of several potential routes including one through the subject site.

CN considers that the extension of the light rail network to be fundamental to the growth within the Newcastle Local Government Area and a significant element to projects such as the Broadmeadow Catalyst Area and the wider public transport implications for the City of Newcastle. In this respect CN did not want the extension of the network to be possibly hampered by the current proposal and the greater impacts on the public interest.

The potential extension of the light rail network comes under the purview of TfNSW. CN has specific concerns as to whether the proposed development may impinge the potential extension of the network. CN sought advice and direction from TfNSW as to whether they objected to the current proposal in this respect.

TfNSW confirmed on 1 April 2022 that they did not object to the proposed development proceeding and specifically indicated the following:

- *"A future light rail extension is not funded to progress to final business case. The current study to assess future corridor options is in early stages of development. Transport is unable to provide advice with respect to a preferred corridor alignment."*

- *Design criteria specific to a future light rail extension cannot be provided and therefore the application should be considered on its merits noting any potential transport impacts on the existing network.*
- *Should the extension of light rail progress in the future, development undertaken by a public authority would be subject to relevant environmental planning processes and approvals."*

Based on TfNSW's above advice regarding the future light rail extension, and that there are various routes which may be considered, it is considered difficult for CN to justify an amendment to, or refusal of, the current proposal in this instance, on the subject site, based on longer term strategic concerns.

In this respect, it is considered that the issues in relation to the future light rail extension have been addressed, considering that TfNSW is the authority for this extension, and their above advice, in context of the current site.

The overall proposal, including the advice of the TfNSW, has been assessed by CN's Senior Development Engineer and is considered to be acceptable subject to the conditions of the consent recommended at **Attachment A**.

## **5.2 Groundwater Management and Ground Anchors**

### *Ground Water*

The proposed development may likely affect the groundwater table through demolition of existing structures and proposed construction. A separate approval will be required to be attained from Natural Resources Access Regulator (NRAR). This could be addressed as part of the required Construction Certificate.

It is probable that the discharge of any groundwater would need to rely on CN's drainage system. Where this is the case, then the Applicant will need to attain a separate approval from CN for the proposed discharge of any groundwater. An Environmental Engineer or consultant will need to determine the method to treat the groundwater prior to discharge to CN's drainage system. In this regard, the applicants will need to provide CN evidence that Minister of Primary Industries has approved the groundwater licence.

### *Ground Anchors*

Ground Anchors may be required to be installed to ensure that existing buildings and road infrastructure is protected. Separate approval from CN will need to be attained if ground anchors are to encroach within the road reserve.

### *Conclusion*

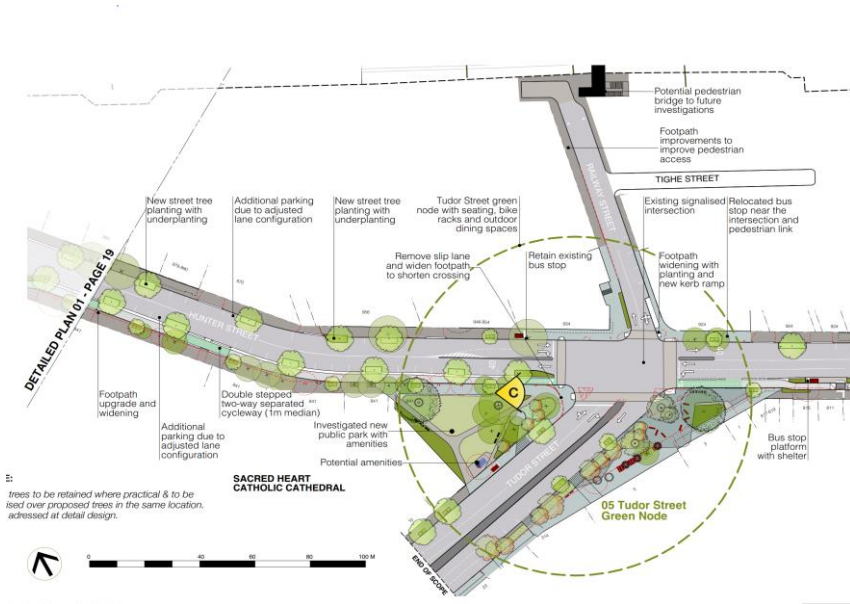
Conditions are recommended to ensure that the process for groundwater discharge and ground anchors is managed.

### 5.3 Public Domain

As previously noted, the application proposes to setback the buildings from the existing Railway St in order to provide a wider paved area for pedestrians using Railway St and the installation of street trees. This approach is supported, and it is considered that any other requirements of CN for public domain works/improvements commensurate with the scale and impact of the development can be addressed via appropriate conditions of consent.

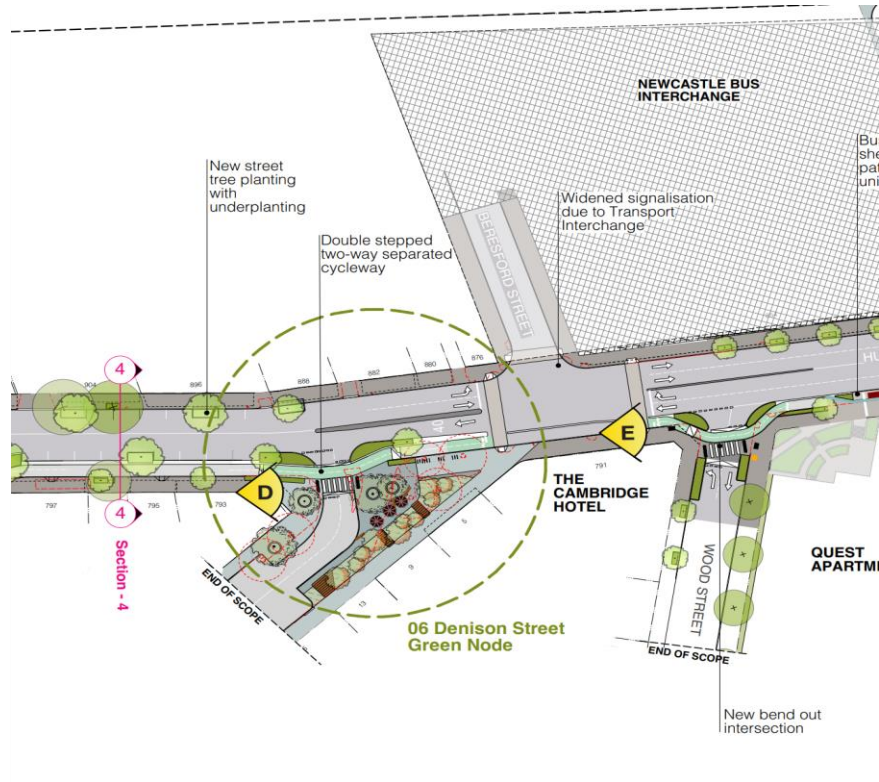
Anticipated public domain works on Hunter St are detailed within the concept plan for the Newcastle West Stage 2 (see extracts at **Figures 10** and **11** below).

**Figure 10 - Newcastle West Public Domain**



Source – Newcastle West Revitalisation Plan

**Figure 11– Newcastle West Public Domain**



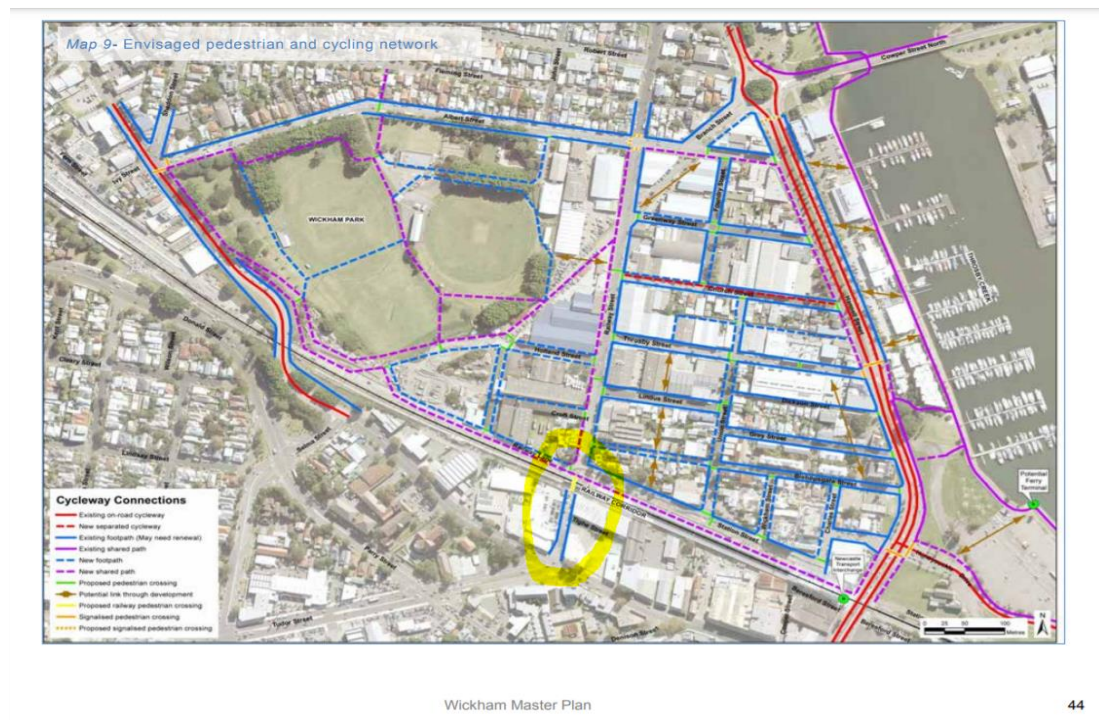
Source – Newcastle West Revitalisation Plan

Pedestrian connection between Newcastle West to Wickham has been addressed as part of Wickham Masterplan (See **Figure 12** below). The additional works are recommended at corner of Tighe St for a footpath continuation, traffic and parking changes to Tighe St and Railway St to manage HRV waste truck movements. The intersection of Tighe and Railway St, at minimum, needs to be designed as a No Stopping zone and kept clear. Further design refinement is also recommended for Tighe St, so to improve HRV and pedestrian access, which may impact on the public domain works.

Any changes to the on-street parking will be required to be also separately approved by CN's Newcastle City Traffic Committee (NCTC) as part of the Section 138 Roads Act application.



**Figure 12 – Wickham Masterplan – Highlighted pedestrian connection issue**



As discussed above, under flooding and stormwater, drainage upgrade works will be required along Hunter St, Railways St and Tighe St.

New Smart City lighting will also be required to be designed and installed along all three site frontages.

The above engineering aspects and public domain works are required to be assessed and undertaken as part of a separate road works approval under Section 138 of *Roads Act*.

The footway along Railways St is proposed to be widened as a public/private interface. The portion of the footway within the subject site, being private land, will require a 'right of carriageway' to be established in favour of CN.

The open spaces between the retail units within the area noted as 'Public Domain Laneway', although is an accessible area by public, is not required by Council to be covered as a 'right of carriageway'.

The proposal is considered to be acceptable subject to the conditions of the consent recommended at **Attachment A**.

## 6. CONCLUSION

The development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, the application can be supported.

It is considered that the key issues associated with the proposal have been resolved satisfactorily and the proposed development is acceptable subject to the recommended conditions of consent at **Attachment A**.

## **7. RECOMMENDATION**

That the Development Application DA 2021/01459 for the partial demolition of existing buildings, erection of mixed use development comprising commercial premises (retail premises and business premises), two residential towers (30 storey and 24 storey) containing 182 dwellings and 238 associated car parking spaces at 924 Hunter Street, Newcastle West be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment A**.

The following attachments are provided:

- **Attachment A:** Draft Conditions of Consent
- **Attachment B:** Architectural Plans
- **Attachment C:** Agency Advice –Transport for NSW