

PANEL REFERENCE & DA NUMBER	PPSHCC-137 DA2022/00538
LGA	City of Newcastle (CN)
PROPOSED DEVELOPMENT	Mixed Use Development - Shop top housing, comprising commercial premises (4), carparking (171), podium level, and residential (106) units.
STREET ADDRESS AND OWNER DETAILS	Lot: 1 DP:1166015 643 Hunter Street Newcastle West
APPLICANT	ADW
OWNER	Next Level Seven Pty Ltd
DATE OF DA LODGEMENT	20 May 2022
APPLICATION TYPE	Local
REGIONALLY SIGNIFICANT CRITERIA	<p>The application is referred to the Hunter and Central Coast Regional Planning Panel ('the Panel') as the development is 'regionally significant development', pursuant to Section 2.19 and Clause (2) of Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 as the proposal is a general development that has a capital investment value of more than \$30 million.</p> <p>The application submitted to Council nominates the capital investment value of the project as \$49,590, 708 (excluding GST)</p>
CIV	\$49,590, 708 (excluding GST)
RECOMMENDATION	Approval

Background

The subject application for a mixed-use development, including shop top housing with 106 dwellings, ground floor commercial premises.

This supplementary report provides further information in response to matters raised during the determination meeting and provides associated amended conditions of consent. The supplementary assessment should read in conjunction with the original assessment report. A version of the amended conditions is provided at **Attachment A**.

Reasons For Deferral

"The Panel considered the report prepared on this matter. It was apparent that the Panel had not been provided with the submissions and that the submitters had not been informed that a report had been prepared and afforded the opportunity to address the Panel should they wish to. For this reason alone, the Panel proposes to defer the application for submitters to be advised. In the review of the report, and arising from the briefing with Council officers and the applicant, it was evident that several issues required further assessment and / or clarification.

These matters relate to:

- (i) *Waste Management solution proposed and identification of how this site is distinguished from other sites in the area that have required on-site waste pick up.*

- (ii) *The proposed cycleway along Steele Street and whether this will impact upon on-street waste pick up.*
- (iii) *Details of the proposed cycleway work, whether it is programmed and how these impacts upon street trees and public domain works.*
- (iv) *What parking restrictions are required to facilitate the waste management solutions as proposed.*
- (v) *Identification of a bulk store area located within the parking areas.*
- (vi) *How car parking requirements were calculated on what assumptions or measurement, and whether there are any implications for FSR.*
- (vii) *Whether the number of car parking spaces is supported.*
- (viii) *An analysis of the arguments supporting or otherwise the reduce setback to the Travelodge hotel site.*
- (ix) *Consideration of the design excellence provisions specifically.*
- (x) *Details of compliance with ADG and what the basis is for not meeting minimum requirements.*
- (xi) *Details of soil depths on podium.*
- (xii) *Details of where large vehicles – i.e. furniture removalist – can access the site.*

The Panel in addition to the consideration of submissions, requires further analysis of these matters to make an assessment of the merits of the application and determine the matter. "

Terms of Deferral

"1. The Panel agreed to defer the determination of the matter for a further report that addresses Items (i) to (xii) above;

2. The applicant be requested to provide details of ADG compliance relating to unit and balcony sizes, an appropriate location for a bulk store and soil depths over podium.

The Panel expects the revised information as referred to at point 2 to be submitted to Council within two (2) weeks from the date of this deferral record. If revised information from the applicant is not provided within two (2) weeks, the Panel may determine the DA based on the information currently at hand.

The Panel expects an addendum assessment report from Council responding to the material and the matters raised at items (i) to (xii) as outlined above.

When this information has been received, the Panel will determine the matter electronically.

The decision to defer the matter was unanimous."

Response to the Reasons for Deferral

Waste Management

The proposed vehicular access to the site is constrained on the Hunter Street and Steel Street frontages by existing and proposed on-road cycleways.

If on-site waste servicing is the only means of waste servicing at this site, the design must accommodate servicing by Council's waste collection due to the levying of the Domestic Waste Management Service Charge on residential property. Council's waste collection fleet consists primarily of the AS 2890.2:2018 Heavy Rigid Vehicle (HRV) class of truck (length: 12.50m length, width: 2.5m, design turn radius: 12.5m). Due to the 12.5m design turn radius, a large turning area on the ground floor would be necessary to allow the HRV to enter and exit the development in the forward direction.

This would significantly diminish usable commercial floor area, which would impact on the overall streetscape along Hunter and Steel Street and limit street activation.

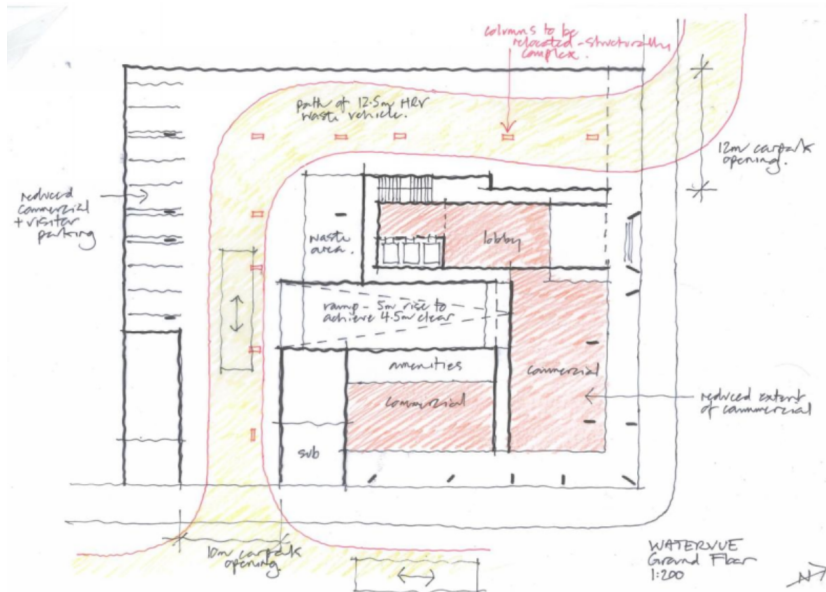


Figure 1: Concept Waste Plan – Ground Floor

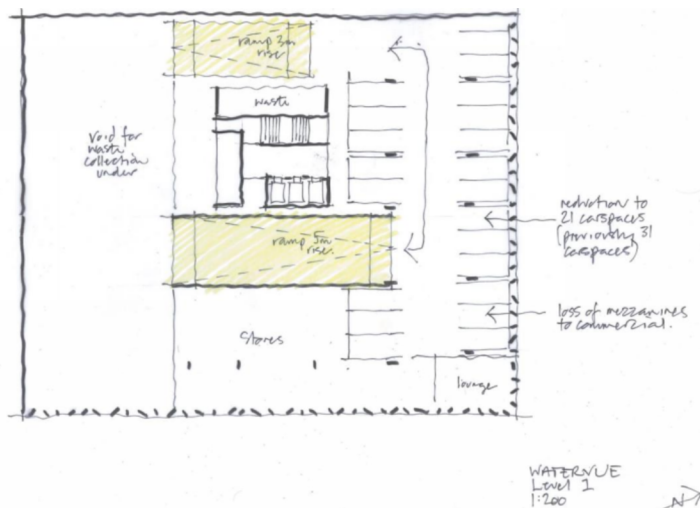


Figure 2: Concept Waste Plan – First Floor

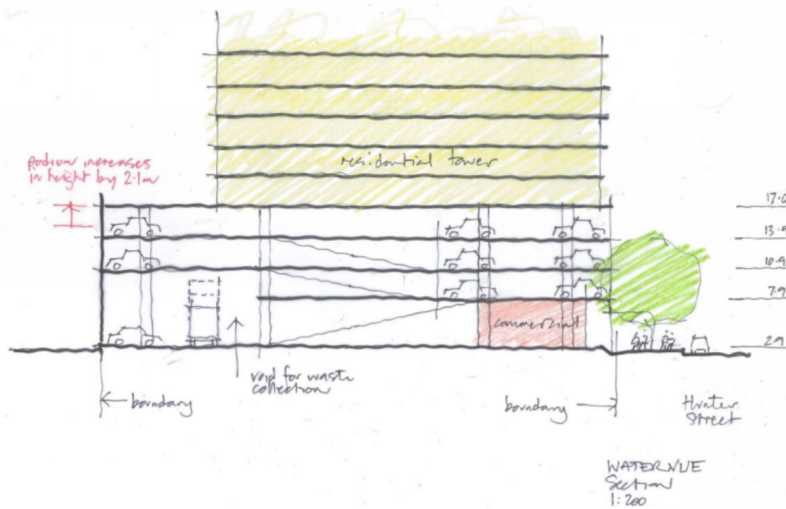


Figure 3: Concept Waste Plan – Section

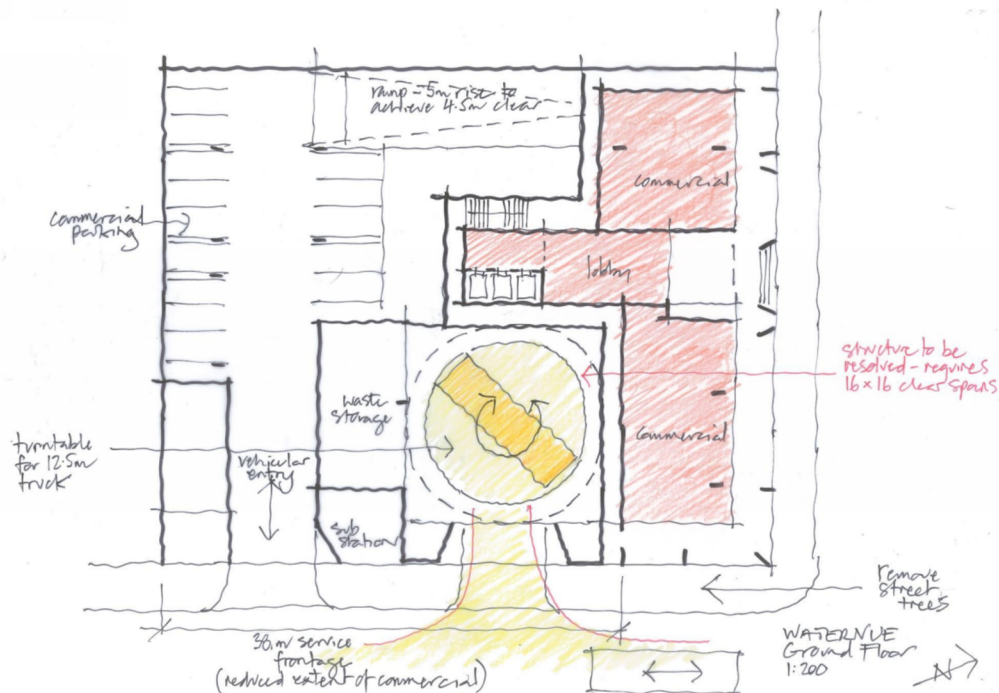


Figure 4: Concept Waste Plan – Turn Table

A turntable loading area provides a more space efficient alternative to allow HRV servicing however the area must be separated from resident/visitor traffic to the development. A separated vehicular crossing is necessary off Steel Street or Hunter Street. As is demonstrated in a concept sketch by the Applicant, this option also significantly diminishes commercial space, car parking and reduces street activation opportunities. Any additional driveway crossings on Steel Street would also conflict with a planned on-road cycleway along the west side of Steel Street, and the combined width would result in a 14-metre sterilisation of the public domain to accommodate the two separate driveways. This option is not supported by Council given the significant impacts on the public domain, anticipated cycle network, and reduced street activation opportunities.

The solution is a proposed Loading Zone along Steel Street that will be time restricted to off-peak hours to provide additional storage in the left turn lane during peak traffic. This Loading Zone (see attached sketch) has been rationalised with the West End Streetscape Plan for Steel Street.

The proposed solution has been reviewed by the Newcastle City Traffic Committee (NCTC) and is largely supported. It is noted that the NCTC identified that key details of the proposal, including the storage capacity of the left turn lane for bus movement would be resolved during the detailed design stage of the Section 138 Road Application.

Bulk Storage Area

The applicant has amended the plans to include a bulk waste storage area located on parking level 2 as shown below at figure 5. To accommodate the new waste area the applicant has removed a tandem parking space and reduced the size of the previous storage cage. The proposed bulky waste area can accommodate large items that may need to be stored and removed. The removal of the car parking area and larger storage cage does not impact the proposals compliance with car parking or GFA.

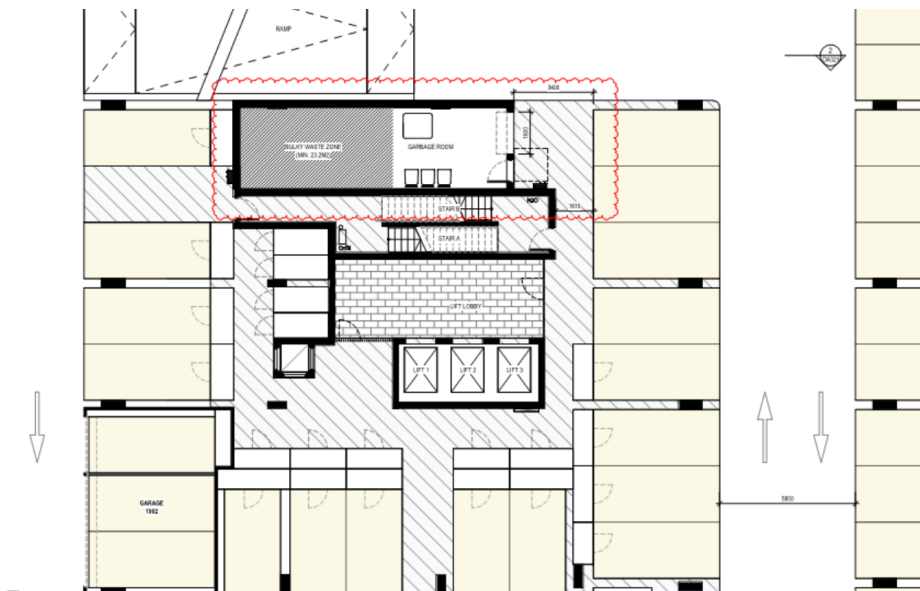


Figure 5: Drawing Number DA103 – Parking level 2

Proposed cycleway network and waste pick up on Steel Street

The proposed cycleway will merge onto the footway, which is to be widened as a Shared Path, prior to the Loading Zone. The proposed cycleway and shared path will not impact upon collect-and-return waste servicing from the future Loading Zone. Figure 6 and Figure 7 identify the anticipated west end streetscape plan and an indicative loading bay area that will be subject to detail design at the Section 138 stage.

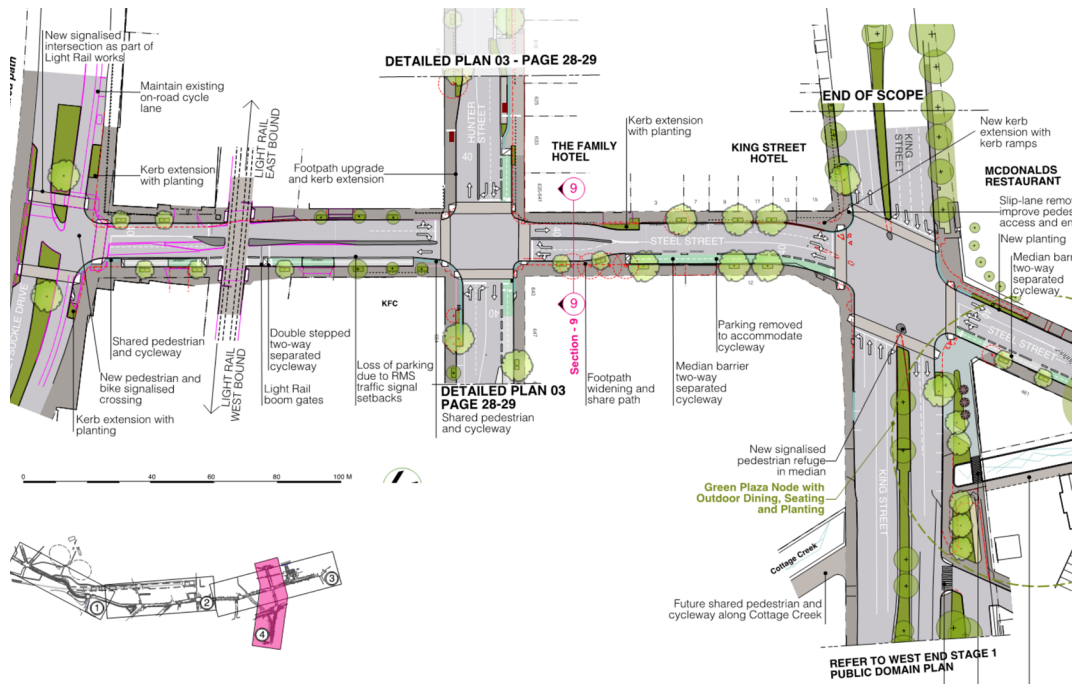


Figure 6: West End Streetscape – Stage 2 Plan.

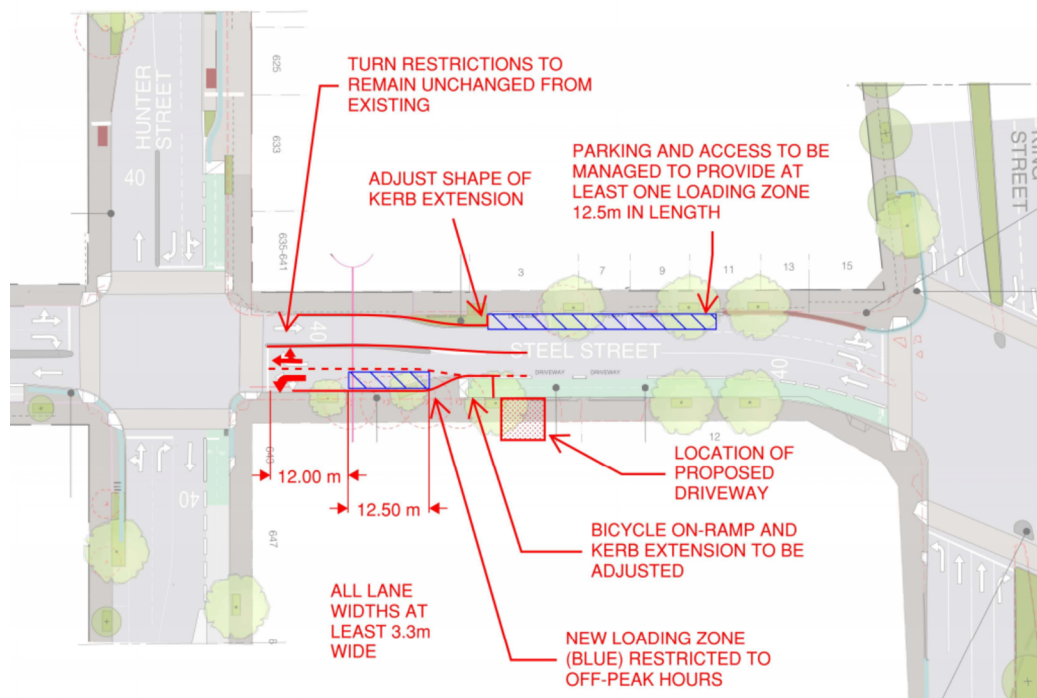


Figure 7: Draft sketch of possible loading bay location – which considers the proposed cycleway network.

Proposed cycleway network and the public domain

It is understood that the works are not yet scheduled into the Council's Capital Works Program, however, further discussions with both Council's Traffic and Transport and City Infrastructure Team have confirmed that the cycleway is anticipated to be accommodated along the west side of Steel Street.

Whilst there are no detailed design plans available, it is expected that the cycleway will be implemented generally in accordance with the West End Streetscape Plan, necessitating removal of 4 existing mature London Plane Street trees to facilitate the shared path. As shown in Figure 7 the proposed loading zone can be accommodated outside of the shared cycleway, and do not compromise the anticipated public domain works.

Parking restrictions, waste management and details of where large vehicles can access the site.

Large vehicles for other deliveries are to access the site during traffic off-peak periods via the on-street time restricted loading zone. No loading access will be available during peak traffic hours (typically 7-9am and 3-6pm). It is noted that loading zone restrictions will be implemented to provide a kerbside standing space for waste servicing. The loading zone will be time restricted to off-peak hours to provide additional car storage in the left turn lane on Steel Street.

Car Parking

Car parking requirements provided in the latest set of plans by Stewart Architecture (Proj. 1833, *dwg. DA012, rv. C, dated 01/05/2023*) were calculated using parking rates in the current version (v5) of Section 7.03 'Traffic, Parking and Access' of the Newcastle Development Control Plan (NDCP).

For residential development in Newcastle City Centre, the car parking rates are as follows:

Dwelling size/type	Rate
Small (75m ² or 1 bedroom)	Maximum average of 1 car space per dwelling
Medium (75-100m ² or 2 bedroom)	
Large (>100m ² or 3 bedrooms)	Maximum average of 2 car spaces dwelling.

The Applicant has amended the area calculations to exclude balcony and open space areas associated with each of the dwellings. Additionally, the plans have been amended to increase the internal areas of some apartments, this has been accommodated by slightly reducing the external balcony areas of each apartment. As a result, the number of large, medium, and small dwellings have been amended as follows:

- i. Small Dwellings: **29** – An increase from the previous **14**
- ii. Medium Dwellings: **30** – An increased from the previous **29**
- iii. Large Dwellings: **47** – A reduction from the previous **63**

The maximum residential parking rate under version 5 of Section 7.03 of the NDCP is calculated at **153** car spaces for residential parking.

The development provides **151** residential car spaces with **8** visitor spaces.

It is noted that there is no maximum or minimum rate for visitor car parking under version 5 of Section 7.03 of the NDCP.

Commercial Parking remains unchanged at: **12** car parking spaces.

A total of **171** car parking spaces are provided, which has decreased from the original **172**.

Version 5 of Section 7.03 of the NDCP came into effect on the 1st of November 2022.

It is noted that version 4 of Section 7.03 of the NDCP was in effect at the time the subject development was lodged. This previous version had no maximum parking restrictions for residential development in the Newcastle City Centre but had lower parking rates for small, medium, and large unit dwellings. The applicant has chosen to comply with the new DCP parking rate as detailed under

Version 5 of Section 7.03 of the NDCP.

Additionally, the amended plans have included minor design changes which increase the minimum unit sizes as a response to the deferral comments. The net effect of the minor increase in unit size is the change in car parking calculations, with no excess car parking now proposed. This assessment has also taken into account the calculation method of not including balconies. The car parking is compliant with version 5 of Section 7.03 and is supported.

Clause 4.4 - Floor Space Ratio

The subject site is identified on the Newcastle LEP 2012 Floor Space Ratio Map as having a prescribed floor space ratio of 6:1. The proposed development previously identified a Gross Floor Area of 11,419.8m², resulting in a FSR of 5.49:1. With the minor adjustments to the unit sizes and inclusion of a bulky waste room the new GFA is calculated at 11,258m², the site has an area of 2,079m² resulting in a amended FSR of 5.415:1.

Clause 7.10 of NLEP 2012 details additional provisions relating to development within "Area A" on the FSR Map, identifying an alternate maximum FSR of 5:1 for sites located within "Area A". The site is located within "Area A" therefore this provision applies. However, Clause 7.5(6) of NLEP 2012 also permits the erection of a building to which the clause applies resulting in an FSR of not more than 10% greater than that allowed by Clause 7.10, but only if the design of the building has been reviewed by a design review panel.

The design of the building has been reviewed by Council's Urban Design Review Panel who have confirmed the proposal achieves design excellence, therefore the 10% bonus provision can be applied resulting in a maximum FSR of 5.5:1. The proposed development remains compliant with an of 5.415:1, which does not exceed the maximum FSR prescribed for the site with the inclusion of the 10% bonus.

Part 7 Additional local provisions – Newcastle City Centre

Clause 7.4 – Building Separation

This clause requires that a building on land within the City Centre must be erected so that the distance from the building to any other building is not less than 24m at 45m or higher above ground level.

The proposal has a zero setback to the west and south side boundaries for the first four levels which is compliant and encouraged by the Newcastle DCP. The setback of the residential tower to the western boundary varies from 5.6m and 14m and the southern boundary setback is 3.5m.

The proposed setbacks and building separation to the western boundary and neighbouring property does not adversely affect the existing building. The proposed and approved future development on the neighbouring site is for an 8-storey commercial building with a blank wall directly on the boundary.

The proposed development will not impact future development. The neighbouring building to the south of the subject site the 7 storey Travelodge is 6m from the common boundary.

The proposed built form does not result in any adverse impacts on the development potential to the Travelodge site. A concept proposal for the Travelodge site has been provided by the Applicant to demonstrate that if further development were to occur, the subject proposal would not impact the development potential. The Applicant has chosen a podium level design with two residential towers, one tower located toward the western portion of the site facing north east and the other setback towards the most southern portion of the site (above the existing car parking and driveway area).

The proposal has sought to improve the outcome for the Travelodge site in terms of shadowing and general open corridors to the north by positioning the proposed building north south. Encroaching onto the southern boundary of the Travelodge site allows for this setting. The extent of building encroaching on the ADG setback has been minimised through the north south orientation of the residential tower.

It is considered that the subject proposal has been designed to protect privacy to the southern boundary (Travelodge site), the slender form of the building and the removal of any living room windows to the southern façade ensures the privacy impacts are minimised.

An alternative design which proposes to setback from the southern boundary to achieve compliance with the ADG would result in the building extending east to west. Positioning the building in this manner would have the effect of blocking the northern aspect, reducing optimal solar access and the over outlook for the Travelodge site.

Overall, it is considered that the proposed design is considerate of the adjoining development, future built form, and emerging neighbourhood context. If strict compliance with the ADG setbacks were enforced, it is uncertain that the proposed design would achieve the same level of design excellence, with the orientation and built form likely to be significantly impacted.

The setbacks have been determined based on extensive site analysis and through multiple design reviews with the Urban Design Review Panel. It is considered that the design has adequately considered the setbacks and the relationship between the apartments and the Travelodge site.

Clause 7.5 – Design Excellence

Clause 7.5 applies to the erection of a new building or to significant alterations to a building and states that a consent authority must not grant consent to development within the Newcastle City Centre unless the development exhibits design excellence.

Clause 7.5(3) provides several matters that the consent authority must consider in deciding whether to grant consent on land to which the design excellence provisions apply. The proposed development is considered to deliver 'design excellence' and is of a high standard of architectural quality, having regard to the design excellence considerations provided in Clause 7.5(3) of the NLEP 2012.

As outlined within the SEPP 65 & ADG assessment, and as described within the assessment report, the proposal has achieved design excellence, as considered by the UDRP. The proposed development has been designed by Stewart Architecture and accompanied by a Design Statement and SEPP 65 Statement.

The UDRP provide comments with respect to the design of the development and Council is of the opinion that the plans submitted have addressed the outstanding design issues. The proposed development responds to the existing and future local context and will the overall quality and amenity of the immediate public domain.

The overall built form provides for appropriate articulation and ensures the public domain, and the immediate surrounding properties are not burdened by a heavy bulk and scale. Providing a podium level and a setback "c" shape tower visually reduces the overall massing of the building, an ensures the proposal provides adequate solar access and cross ventilation.

It is considered that the proposal is of a high architectural quality and will define the street frontage for this portion of Hunter and Steel Street. The building is well-articulated at all levels, with a mix of balcony elements and façade treatments.

The proposal suitably integrates business, office, retail, and residential development in an accessible

location so as to maximise public transport patronage and encouraging walking and cycling. The proposal does not result in any unreasonable environmental impacts and provides for a high quality architectural and urban design outcome.

Clause 7.5(4) provides that development consent must not be granted for certain types of development unless an architectural design competition has been held in relation to the proposed development, this includes 'development in respect of a building that is or will be higher than 48m in height'.

The development in its entirety has a building height greater than 48m. Accordingly, the provisions of Clause 7.5(4) apply to the subject Application.

However, Clause 7.5(5) specifies that Clause 7.5(4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required. Pursuant to Clause 7.5(5) of the NLEP 2012, the Government Architect NSW (delegate of the Director-General) has certified in writing that a design competition is not required for the proposed development, subject to the implementation of alternative design excellence process in accordance with the conditions of the waiver (letter dated 29 March 2022).

The alternative design excellence process provides a method of design integrity be established to ensure the development retains design excellence through to the completion of construction, this includes continuing review by CN UDRP at key milestones. Accordingly, a design competition is not required to be held prior to the granting of development consent.

Suitable conditions have been included in the recommended Draft Schedule of Conditions (refer to **Attachment A**) requiring the development to be undertaken in accordance with the architectural design competition waiver issued by the Government Architect NSW.

Table 1: Amended ADG compliance table – The below table provides further discussion around the ADG compliance and details of the previously submitted unit areas.

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:									
<p>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> <table><tr><th>Building height</th><th>Habitable rooms & balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table>			Building height	Habitable rooms & balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	<p>The proposal's residential component is situated above the podium level, which has been designed as a single tower structure. The tower's 'C' shape configuration is a form that contributes positively to the overall design. Due to the configuration of the building, there is potential for overlooking/privacy issues between the apartments located at the alternate ends.</p> <p>The subject site has dual street frontages to Hunter and Steel Street, therefore building separation setbacks are not relevant to these boundaries.</p> <p>It is noted a commercial building on the</p>
Building height	Habitable rooms & balconies	Non-habitable rooms										
up to 12m (4 storeys)	6m	3m										
up to 25m (5-8 storeys)	9m	4.5m										
			Compliance									
			<p>Satisfactory (Merit based assessment)</p> <p>Provided additional privacy measures are implemented.</p>									

<div>over 25m (9+ storeys)</div>	<div>12m</div>	<div>6m</div>	<div>western side of the proposal has been approved up to 8 stories high with a hard edge against the boundary.</div> <div>Above the podium, the tower is stacked in a consistent vertical form. The tower consists of identical unit layouts from fifth to the 18th floor, above the 19th floor penthouses are stepped back from the floor below which is the only change to the building form.</div> <div>Setbacks above 4th floor podium to 19th floor are as follows;</div> <div>1.0m setback from north boundary (Hunter St)</div> <div>12.75m setback from east boundary (Steel St)</div> <div>A varied setback between 5.6m - 6.45m from western boundary.</div> <div>3.5m setback from the southern boundary (Travelodge).</div> <div>It is noted that Travelodge (Mercure) car park is within the vicinity (9.2m) to the southern boundary of the Site. The existing Travelodge building is 6.1m from the boundary of the Site, however the interface is an existing blank wall. No windows are located on the north facing wall of the Travelodge building as shown below in figure 8.</div> <div data-bbox="662 1458 1177 2016"></div>	
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Figure 8: Indicating the boundary setbacks from Travelodge car park and the Travelodge building to the southern boundary of the site.

The proposal has incorporated landscaping treatments towards the southwest corner of the site, which minimises any potential overlooking from the western facing windows of the Travelodge.

The proposal's two central communal open space areas are located toward Steel Street (east) and the western boundary of the proposed commercial building. Positioning the podium level open space areas toward the street and commercial building has limited privacy impacts that could occur to the Travelodge site.

If the proposal were orientated to achieve strict compliance with the ADG the application would likely be positioned in an east to westerly direction. Orientating the proposal in this manner would likely result in the reduced northerly solar aspect, views towards the harbour, and increase privacy impacts on the adjoining Travelodge site.

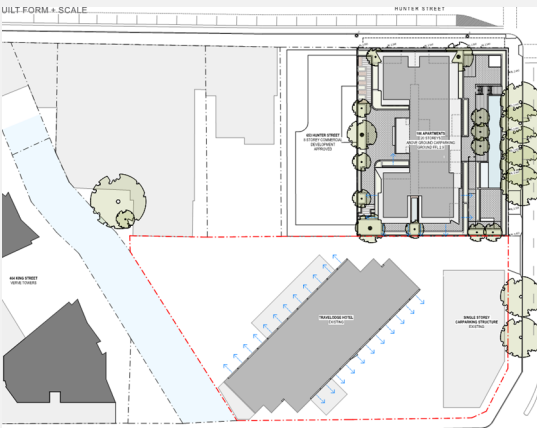


Figure 9: Site Plan from feasibility study - identifying the proposal, Travelodge building, existing Travelodge car park and a portion of the Verve development (Page 5).



Figure 10: Photo which identifies the existing site and blank wall of the Travelodge.

The applicants have provided a concept feasibility plan for the Travelodge site which provides for a podium level design and two residential towers that can comply with the ADG setbacks. The overall built form of the concept design seeks to take advantage of the city and harbour views and ideal solar access. The breaking up of the residential tower structures in a way mirrors the design of the neighbouring Verve development and continues to respect emerging built form of the West End precinct.

It is considered that the proposed concept development has demonstrated that a compliant ADG design proposal can be achieved and designed in a way that does not compromise the privacy of the subject proposal or sterilise the development opportunities that exist for the Travelodge site.

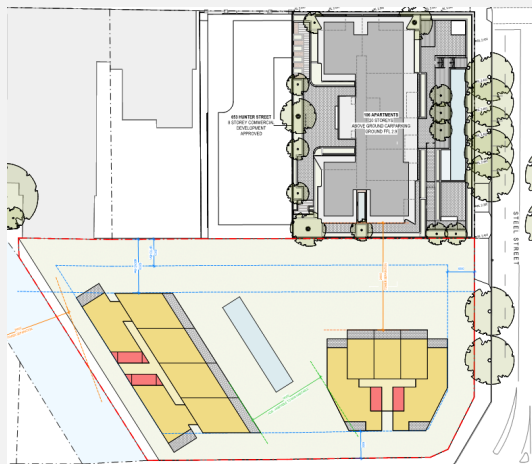


Figure 11: Plan from the applicant's

concept feasibility study / Travelodge design (Page 6).

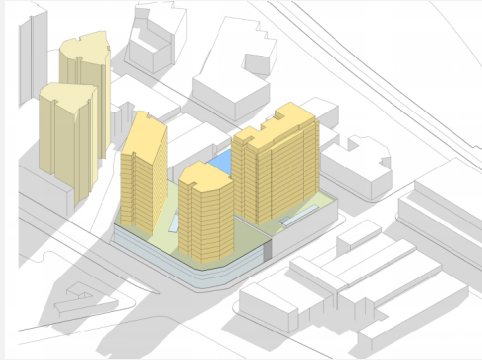


Figure 12: Plan from the applicant's feasibility study - identifying the built form and scale of the proposal against the Travelodge and Concept Design (Page 13).

As noted, due to the 'C' configuration of the building, there are non-complying setbacks between habitable rooms within the subject development.

On levels 5 to 18 there is a 16.665m setback distance between UT2C-No.4 and UT3B-No.5 on each floor between bedrooms of Unit-05 and the balconies of Unit-04. However, this is deemed acceptable provided privacy treatment on the bedroom windows such as external screens are applied. The applicant has subsequently amended the plans to include the required privacy screens.

The common apartment access corridor windows facing west will also require privacy measures as currently there is unacceptable overlooking of individual adjacent apartment balconies and living rooms of units-04 (located southwestern site corner).

As such, if the additional privacy measures are implemented the proposed development will be consistent with the intent of this objective and acceptable in this regard.

Objective 4D-3

Apartment layouts are designed to accommodate a variety of household activities and needs

Design Criteria	Comment:	Compliance
• Master bedrooms have a	100% of the master bedrooms	Complies

minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	achieve a minimum area of 10m ² .																
Secondary Bedrooms	100% of the master bedrooms achieve a minimum area of 9m ² .																
<ul style="list-style-type: none"> Bedrooms have a minimum dimension of 3m (excluding wardrobe space). 	<p>135 of 215 bedrooms in the proposed development have bedrooms with a dimension less than the 3m minimum dimension requirement of the design criteria. This equates to around 62.8% of the bedrooms in the development.</p> <p>The majority non-compliance is with the secondary bedrooms.</p> <p>Whilst many of the secondary bedrooms do not achieve compliance it is noted that the proposal provides substantial living and outdoor amenity. The rooms are still functional, provide adequate storage and provide a flowing, unimpeded access through to the main living areas.</p>	Non-compliance merit-based assessment – Acceptable.															
<ul style="list-style-type: none"> Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1-bedroom apartments. 4m for 2- and 3-bedroom apartments. 	<p>It was previously raised that unit type UT2C and UT3B have been amended to adjust the living rooms width to 4m.</p> <p>Consequently all 9 of the apartment types now achieve the minimum width.</p>	Complies.															
4E Private Open Space and Balconies																	
Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity.																	
1. All apartments are required to have primary balconies as follows: <table border="1" data-bbox="189 1637 614 1910"> <thead> <tr> <th>Dwelling type</th><th>Min. area</th><th>Min. depth</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>4m²</td><td>-</td></tr> <tr> <td>1 bedroom</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom</td><td>12m²</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 ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	All apartments have primary balcony areas that achieve the minimum area and depths required for the number of bedrooms provided in the apartment as detailed below.	Complies.
Dwelling type	Min. area	Min. depth															
Studio	4m ²	-															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3+ bedroom	12m ²	2.4m															

<p>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 15m² and a minimum depth of 3m.</p>	<p>7 of the 8 apartments located on a podium or similar structure (Level 4 and Level 19) have a private open space in excess of the 15m² minimum requirement and have depth of more than the 3m minimum requirements.</p> <p>The noncomplying apartment is Apt 401 UT1A which has an apartment is non-complying at 12.4m².</p> <p>Apt 401 UT1A is a one-bedroom apartment, larger than the min apartment size, with additional amenity provided in the form of an internal study space. The living area is located adjacent to the private open space and becomes an extension of the living space.</p> <p>The living space includes glazing on two sides making the space feel connected with the open private space / adjacent landscaping. It is also noted that there is a narrow extension of the private open space on the eastern side of the living space which is less than 1m and therefore excluded from being included in the total POS area. However, this does in essence provide an increased feeling of space both within the apartment living space and external open space.</p> <p>However, the internal area of the apartment is at 65m² which is well above the required 50m². By providing an internal living area 15m² above the minimum requirement, the unit still provides spacious living and entertainment areas, ensuring the overall amenity is not compromised. Additionally, the outdoor area looks directly onto the podium landscaping, which provides adequate privacy and greenery.</p> <p>The private open space is sized 3.0 x 3.3 and is capable of flexible uses and furniture arrangements. It is deemed this space is adequate and consistent with the intent of the design guidelines in this circumstance.</p>	<p>Satisfactory (Merit based assessment).</p> <p>Minor non-compliance. The proposal achieves 99% compliance.</p>

It is noted that to achieve greater compliance with the NDCP car parking provisions the applicant has amended the area of the internal and external areas for some of the typical unit types the units still ensure that unit types provide for adequate external and internal living areas. Upon review of the plans, it is considered that the majority of external areas remain compliant with the ADG.

Unit type	Internal Area	External Area	Compliance with ADG
UT1A	65m ²	9.1m ²	Complies
	Level 4 -	Level 4 - 12.4m ²	Minor non-compliance to podium level unit courtyard area.
Previous UT1A	64.9m ²	9.5m ²	
	Level 4 – 64.9m ²	Level 4 – 12.4m ²	
UT1B	60.2m ²	9.1m ²	Complies
Previous UT1B	59.8m ²	9.3m ²	
UT2A	84m	14.4m	Complies
	Level 4 -	Level 4 - 18.7m ²	Complies
Previous UT2A	83.4m ²	14.5m ²	
	Level 4 - 83.4m ²	Level 4 – 18.8m ²	
UT2B	89.6m	11.8m ²	Complies
	Level 4 – 90m ²	Level 4 - 62.7m ²	Complies
Previous UT2B	83.4m ²	14.5m ²	
	Level 4 – 89.6m ²	Level 4 – 62.7m ²	
UT2C	100.3m	25m ²	Complies
	Level 4 -	Level 4 – 50.4m ²	Complies
Previous UT2C	97.9m ²	27.2m ²	
	Level 4 - 97.9m ²	Level 4 – 68.9m ²	
UT3A	116.3m	20.2m ²	Complies
	Level 4 -	Level 4 – 31.6m ²	Complies
Previous UT3A	116.3m ²	19.5m ²	
	Level 4 – 116.3m ²	Level 4 – 31.6m ²	
UT3B	111.1m	17.9m ²	Complies
	Level 4 -	Level 4 – 28.6m ²	Complies
Previous UT3B	111.1m ²	17.2m ²	
	Level 4 – 111.1m ²	Level 4 – 28.6m ²	
PH1	188.7	118.7m ²	Complies
Previous – No Change			
PH2	191.1	102.9m ²	Complies
Previous – No Change			

Soil depths

The applicant has amended the plans to provide details of the planter beds located on the podium level of the proposal. The plans confirm that planter beds are either at a depth of 1m or greater.



Figure 13: Drawing 105 –Podium Plan

Submitters Briefing

The Hunter & Central Coast Regional Planning Panel received copies of the ten written submissions from Newcastle City Council. Five of the submission were identical which is equivalent to one unique submission. Five unique submissions were received from individual households. Therefore, a total of 6 unique submissions were received.

Submitters were also given an opportunity to brief the Panel on their concerns and raise new issues on the 19 April 2023. The below table details the issues raised during the meeting and the response from Council.

Table 2 - Key Issues discussed at briefing meeting.

Issue	Response
Concerned about non-compliance with DCP	<p>The development proposes a street wall that is 12.35m in height. The residential development above the street wall provides a 12.75m setback to Steel Street. The above podium tower is setback by 1m with articulation setback to 1.5m to Hunter Street.</p> <p>This proposed setback responds to the development happening along Hunter Street with the adjoining approved development being an office building to the West which will have a 600mm setback.</p> <p>The variation to the Newcastle DCP setback is considered appropriate as the building design of the residential tower ensures the built form does not dominate over the streetscape.</p> <p>The proposal is non-compliant with a number of</p>

	<p>DCP controls in relation to the HCA; however, these guidelines are more relevant to HCAs with cohesive streetscapes and consistent building typologies. The established significance as described in the listing has little relevance for the context of the subject site, which is characterised by mid- to late-twentieth century commercial buildings and modern high-rise development. This is recognised by DCP 6.01, which states that 'the predominance of larger consolidated land holdings and fewer environmental and heritage constraints' of the West End area 'make this precinct ideally suited to become the future CBD of Newcastle.</p>
Overshadowing on adjoining properties and facades. Diagrams cut off at Cottage Creek.	<p>The submitted shadow diagrams demonstrate that the proposal will only cause minor overshadowing to a small portion of cottage creek development near the King Street frontage at 9am on 21 June. It appears that no overshadowing will occur from 12pm -3pm on the 21 June. It is considered that the solar access impacts are negligible.</p> <p>The proposal will not cause any overshadowing to apartments or common areas within the Verve development and will only have very minor solar impacts on the Cottage Creek pathway at 9am on 21 June.</p>
Lack of visual impact assessment	<p>The proposal will contribute to the emerging character of the West End through the provision of a mixed use development that exhibits design excellence. No significant views from Newcastle East will be diminished as a result of the proposal.</p> <p>Due to the significant consultation process a design competition waiver was considered appropriate in this instance. Whilst a design waiver has been granted, the requirement to achieve design excellence remains valid and a significant process has been undertaken to achieve this for the proposal.</p> <p>The proposed development has therefore been waived from the requirement of a design competition only. The proposal has still been subject to the stringent design excellence process in accordance with the NLEP 2012, which has included multiple reviews of the design by Council's UDRP. The Panel outlined in the July 2022 meeting minutes that the development can be considered to exhibit a high level of design quality, and the completed</p>

	<p>proposal can be expected make a very positive contribution to the area.</p> <p>Within the vicinity of the subject site (Hunter Street, National Park Street, King Street, and Steel Street) the area is subject to a maximum building height of 60m under the NLEP 2012.</p> <p>Land to the west of this block (Spotlight) is subject to a maximum building height of 90m. Accordingly, the proposed building scale is consistent with the established and desired building heights in the West End Precinct. The UDRP and Council is satisfied that the proposed development is appropriate within the urban landscape.</p> <p>The proposed development will have no impact on the views identified within the Views and Vistas Map figure within the DCP. As such, a Visual Impact Assessment is not a requirement for the proposal under the DCP.</p>
Scope of public exhibition of DA and extent of notification.	The Development Application has been exhibited in accordance with the Community Participation Plan. Further notification is therefore not considered necessary.
Traffic impacts	<p>The proposed development comprises 14 fewer units than the approved development on the site, which in turn results in 30 fewer daily trips. Therefore, the proposed development provides an improved traffic situation compared to the approved DA for the site.</p> <p>A Traffic Impact Assessment has been prepared by TTPP to accompany the development application. The report was detailed that compared to the development under the approved DA, the proposal would generate relatively the same number of trips in the respective peak hours, however, considerably fewer daily trips i.e., a reduction of 30 trips per day.</p> <p>Additionally, the assessment concluded that the proposed development would result in minimal traffic and parking impacts on the local road network.</p> <p>Council's Engineers have reviewed the proposed trip generation as part of Council's assessment of the application and have raised no issue with trip generation rates.</p>
Wind impact on adjoining properties above ground level.	A wind assessment has been provided as part of the application and has been included in the

	<p>conditions of consent. The wind report concluded that due to the significant tower setback at podium level, the proposed development is not expected to have any significant effects on the wind conditions in the public domain at the ground level.</p> <p>Localised mitigation including awning, cabanas and protected seating areas would be recommended for locations on the pool deck on the eastern side of the podium where seating and stationary activities are intended.</p>
The Verve is considered a benchmark of good architecture in the Newcastle CBD.	<p>The Verve is a development that exhibits design excellence.</p> <p>The subject proposal has equally been subject to the same stringent design excellence process in accordance with the NLEP 2012, which has included multiple reviews of the design by Council's UDRP.</p> <p>The Panel confirmed in the July 2022 meeting minutes that the development can be considered to exhibit a high level of design quality, and the completed proposal can be expected make a very positive contribution to the area.</p> <p>The proposal has been reviewed against the ADG, NLEP and NDCP controls. The proposal generally follows the form for the site envisaged by the Newcastle DCP Newcastle City Centre and Newcastle Local Environmental Plan 2012.</p> <p>The proposal will provide for continued local housing supply.</p> <p>The proposal suitably integrates business, office, residential, retail, and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</p>
Potential for the development to set a precedence.	<p>The proposal is consistent with the strategic vision for the area. The proposal creates opportunities to improve the public domain and pedestrian links within Steel Street and Hunter Street. The proposal is a generally compliant development, and it encourages development that contributes to an active, vibrant and sustainable neighbourhood.</p>

Conclusion

The above supplementary report, in combination with the revisions to the draft conditions by the Regional Planning Panel and the City of Newcastle, comprehensively addresses the concerns and issues arising from the determination meeting.

Suitable investigations and documentation have been provided to demonstrate that the site can be made suitable for the proposed development. Additionally, the proposal is consistent with the land use planning framework for the locality.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. The development is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

The application is recommended for approval subject to the imposition of appropriate conditions.

It is recommended that the application be supported on the combined basis of the 'Council Assessment Report' and this Supplementary Report subject to the revised draft conditions of consent.

Attachment A – Amended conditions – Highlighted in red.

Attachment B – Amended Plans