

ITEM-6 DAC 20/04/21 – 13 & 15 STEEL STREET, NEWCASTLE WEST – DA2020/00766 – CHANGE OF USE, INCLUDING ALTERATIONS TO THE EXISTING BUILDING AND INTERNAL FITOUT

APPLICANT: TRAY 3 PTY LIMITED
OWNER: TRAY 3 PROPERTIES PTY LIMITED
REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PART I

PURPOSE

A Development Application (DA2020/00766) has been received seeking consent for a pub – change of use from existing food and drink premises and sex service premises, including alterations to the existing building and internal fit out.

The site is located at 13 and 15 Steel Street, Newcastle West consisting of an existing food and drink premises known as the King Street Hotel.

The submitted application was assigned to Development Officer, Thomas Howell, for assessment.

The application is referred to the Development Applications Committee (DAC) for determination, due to the application being called in by Councillor Elliott and Councillor Church.

The application was publicly notified in accordance with City of Newcastle's (CN) Community Participation Policy (CPP), with two submissions being received within the notification period and 15 late submissions being lodged.

The concerns raised by the objectors in respect of the proposed development include public safety and increase to anti-social behaviour, noise, impact to residential amenity, lack of public lighting, non-compatible land use and relationship with other land uses.



Subject Land: Subject Land: 13 & 15 Steel Street, Newcastle West

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Planning Assessment at Section 5.0.

The proposal was considered at a Public Voice (PV) Committee Meeting held on 16 February 2021. The issues raised included potential increase of anti-social behaviour, existing and potential increase of alcohol-related crime, relationship with surrounding land uses and operators, lodgement of separate development application, inadequate notification of the development application, the NSW Police submission, increased patron numbers, fire safety and egress and CCTV access.

Issues

- 1) Matters raised in the submissions including public safety and increase to anti-social behaviour, noise, impact to residential amenity, lack of public lighting, non-compatible land use and relationship with other land uses.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and is considered to be acceptable subject to compliance with appropriate conditions.

Recommendation

- A. That DA2020/00766 for pub – change of use, including alterations to the existing building and internal fitout at 13 and 15 Steel Street, Newcastle West be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment D**; and
- B. That those persons who made submissions be advised of CN's determination.

Political Donation / Gift Declaration

Section 10.4 of the *Environmental Planning and Assessment Act 1979* requires a person to disclose "*reportable political donations and gifts made by any person with a financial interest*" in the application within the period commencing two years before the application is made and ending when the application is determined. The following information is to be included on the statement:

- a) all reportable political donations made to any local Councillor of Council; and
- b) all gifts made to any local Councillor or employee of that Council.

The applicant has answered **NO** to the following question on the application form: *Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

PART II

1.0 THE SUBJECT SITE

The site comprises 13 and 15 Steel Street, Newcastle West and has a legal description of Lot 1 in Deposited Plan 1127526 and Lot 1 in Deposited Plan 798860, respectively. The sites are regular in shape and have a combined total area of approximately 679m². The sites are located on the eastern side of Steel Street with 15 Steel Street being a corner allotment with a secondary frontage to King Street. The sites benefit by a right of carriageway at the rear of the sites, gaining access to King Street.

The subject sites are identified as being flood affected and within the Coastal Environment Area map as prescribed under State Environmental Planning Policy (Coastal Management 2018). The sites are also located within a mine subsidence district.

An attached two-storey and three-storey building built to both the side and front street boundaries are currently located on the site. The existing buildings are brick with metal roofing of typical age and architectural style for the area. The site known as 13 Steel Street currently operates as a food and drink premises on the ground floor, including Domino's Pizza fronting Steel Street and part of the King Street Hotel at the rear. The first floor is currently vacant, with the last approved use operating as a sex services premises. The site known as 15 Steel Street wholly operates as a food and drink premises (pub) known as the King Street Hotel. The surrounding area predominantly consists of two-storey attached commercial buildings with residential uses to the south, east and west. The Marketown residential development first constructed in late 2015, is south of the subject site at 21 Steel Street and the Verve residential development first constructed in late 2019, is to the west at 464-470 King Street.

The subject site is flat and devoid of any vegetation.

2.0 THE PROPOSAL

The applicant seeks consent for a pub, change of use from existing food and drink premises and sex service premises, including alterations to the existing building and internal fit out.

The proposed works include:

- i) Internal alterations and fit out of existing building (13 Steel Street) for use as a nightclub (pub), including alterations to the internal floor plan to accommodate a ground floor bar, first floor bar and bathroom amenities.
- ii) New openings to the Steel Street frontage and new bifold windows to the eastern elevation (13 Steel Street).
- iii) New ground and first floor internal openings to the adjoining building located on 15 Steel Street.

- iv) The proposed use of the site as a nightclub expands the existing operations of the King Street Hotel currently operating out of 15 Steel Street and part of 13 Steel Street, Newcastle West. The existing and proposed maximum number of people permitted in the venue are as follows:

Existing	Proposed
Total: 780 persons	Total: 1,300 persons
380 persons to the ground floor 350 persons combined to the upper floors (15 Steel Street only)	692 persons to the ground floor (13 and 15 Steel Street) 258 persons to the first floor (13 Steel Street) 350 persons combined to the upper floors (15 Steel Street)

- v) The proposed operating hours are as follows:

Monday	10am to 3:30am
Tuesday	10am to 3:30am
Wednesday	10am to 3:30am
Thursday	10am to 3:30am
Friday	10am to 3:30am
Saturday	10am to 3:30am
Sunday	10am to 12am

NB: The proposed hours of operation have been reduced from the existing approved hours of the King Street Hotel under DA2008/1094. The venue proposes a close time of 3:30am compared the existing approved close time of 5:00am.

Despite the proposed operating hours listed above, the Plan of Management indicates the trading hours of the King Street Hotel are consistent with the NSW Liquor and Gaming licensing restrictions imposed under the Newcastle lockout conditions commenced in 2008. This requires the venue to close at 3:30am with a 1:30am 'no entry' curfew. In March 2021 the NSW State Government announced a 12-month trial lifting the Newcastle lockout conditions. This trial is to commence from 1 July 2021.

Further, the *usual* trading hours are Friday and Saturday: 9pm to 3:30am with a 1:30am 'no entry' curfew in place as per the Liquor Licence.

The sales of takeaway liquor are subject to conditions prescribed by the subsequent Liquor Licence application.

A copy of the submitted plans is at **Attachment A**.

The various steps in the processing of the application to date are outlined in the Processing Chronology at **Attachment E**.

3.0 PUBLIC NOTIFICATION

The application was publicly notified for a period of 14 days between 30 July 2020 and 13 August 2020 in accordance with CN's Community Participation Plan (CPP). During the notification period two submissions were received. An additional 15 submissions were subsequently received outside the formal notification period.

The concerns raised by the objectors in respect of the proposed development are summarised as follows:

a) Statutory and Policy Issues

- i) Zoning objectives – does not meet the objectives of the B4 Mixed-Use zone and conflicts with surrounding residential uses.
- ii) Lodgement of separate development application – multiple development consents operate on the subject site, adjoining property (15 Steel Street, Newcastle West) and laneway.
- iii) Notification – inadequate scope of notification of development application.

b) Site and Contextual Issues

- i) Location of subject site and nature of use – non-compatible land use within the context of the Newcastle West precinct which includes sensitive residential uses.
- ii) Relationship with surrounding land uses – dispersion of patrons exiting the premises into the surrounding area and other properties including the 24-hour McDonald's Restaurant and carpark (19 Steel Street, Newcastle West).

c) Amenity and Social Issues

- i) Noise – unreasonable transfer of noise to adjoining properties attributable to amplified music, patrons and dispersion of people within the surrounding Newcastle West area.
- ii) Anti-social behaviour and impact to residential amenity – increase of anti-social behaviour associated with the consumption of alcohol at the site including littering, vandalism, nuisance calls and damage to property.
- iii) Crime – increase of alcohol-related criminal activities and violence within an area already experiencing higher than average crime rates.

- iv) Public safety – reduction in public safety and residents' exposure to abusive language and alcohol-related violence.
- v) Public lighting – lack of appropriate public lighting within the surrounding area to deter potential anti-social or criminal behaviour.

d) Miscellaneous

- i) Concern raised on the number of licensed premises in the Local Government Area (LGA).
- ii) Hours of operation – the proposed hours of operation will impact on the amenity of the area.

Public Voice Committee

The proposal was considered at a PV Committee Meeting held on 16 February 2021. The issues raised included increase of anti-social behaviour, existing and potential increase of alcohol-related crime, relationship with surrounding land uses and operators, lodgement of separate development application (DA), inadequate notification scope of the DA, the NSW Police submission, increased patron numbers, fire safety and egress and CCTV access.

The applicant provided a presentation in response to the issues which is discussed in further detail in Section 5.8 of the report.

The various steps in the processing of the application to date are outlined in the Processing Chronology at **Attachment E**.

4.0 INTEGRATED DEVELOPMENT

The proposal is not '*integrated development*' pursuant to Section 4.46 of the EP&A Act.

5.0 PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the EP&A Act, as detailed hereunder.

5.1 Provisions of any environmental planning instrument

State Environmental Planning Policy No 55 - Remediation of Land (SEPP55)

SEPP55 provides that prior to granting consent to the carrying out of any development on land the consent authority is required to give consideration to whether the land is contaminated and, if the land is contaminated, whether the land is suitable for the purpose of the development or whether remediation is required.

The subject land is currently being used for commercial purposes and CN records do not identify any past contaminating activities on the site. The proposal is considered to be acceptable having regard to this policy.

State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP)

The subject site has been identified as being located within 'Coastal Environment Area' map as prescribed by the SEPP. As such, Part 2 Division 3 Clause 13 of the SEPP need to be taken into consideration in determining the development application. Considering the extent of the proposed works and the separation of the subject site to the coast, the proposal is not deemed to have any adverse impact on the access, overshadowing, amenity or heritage values of the foreshore.

Further, the proposed development will not increase the risk of coastal hazards and the site is not subject to a coastal management program and is therefore considered to meet the provisions of clause 15 and 16.

The proposed development is considered acceptable having regards to the applicable provisions of the SEPP.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

The following summarises an assessment of the proposal against the provisions of the NLEP 2012 that are primarily relevant to the proposed development.

Clause 2.1 - Land Use Zones

The subject sites are included within the B4 Mixed-Use zone under the provisions of NLEP 2012. The proposed development is defined as 'pub' which is a form of 'food and drink premises' which falls under the group term 'commercial premises' and is permissible within the B4 Mixed-Use zone.

The proposed development is consistent with the objectives of the B4 Mixed-Use zone, which are:

- i) To provide a mixture of compatible land uses.
- ii) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- iii) To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

Comment

The site is located in the B4 Mixed-Use zone under the NLEP 2012 and the proposed development is permissible with development consent as a 'pub' which is a type of 'food and drink premises'. The site is located within the Newcastle City Centre precinct with access to public transport nodes. The proposed development

predominantly operates at night and is unlikely to impact the viability of the Newcastle City Centre.

The application has been supported by a Plan of Management (PoM), Noise Impact Assessment, Social Impact Comment and Crime Risk Assessment Report which details the development will not cause unreasonable impact to the surrounding land uses.

Clause 2.7 - Demolition Requires Development Consent

The proposal includes some demolition works. Conditions are recommended to require that demolition works, and the disposal of material is managed appropriately and in accordance with relevant standards.

Clause 4.3 - Height of Buildings

Under the NLEP 2012 the site has a maximum height of 45m. The proposed works are wholly within the existing building footprint which is within the prescribed building height.

Clause 4.4 - Floor Space Ratio

Under the NLEP 2012 the site has an FSR development standard of 5:1. The submitted FSR is approximately 2.7:1 and complies with this requirement.

Clause 5.10 - Heritage Conservation

The subject site is located within the Newcastle City Centre Heritage Conservation Area as identified in the NLEP 2012. The proposed works retain the existing footprint of the building. The external works are minor in scale and do not create any additional bulk or scale to the site and will not detract from the existing heritage amenity of the surrounding area.

Clause 5.20 - Standards that cannot be used to refuse consent—playing and performing music

Clause 5.20 sets out standards that a consent authority cannot use to refuse licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level. The application has been supported by a Noise Impact Assessment (NIA) which has been reviewed by CN and consideration has been given to the noise impact upon current and future residential receivers. The NIA specifies that the proposed expanded operations of the King Street Hotel are able to meet compliance with the required acoustic criteria.

Clause 6.1 - Acid Sulphate Soils

The site is affected by Class 4 acid sulphate soils and the proposed development is considered satisfactory in this regard.

Clause 6.5 - Public Safety – Licensed Premises

Clause 6.5 requires the consent authority to consider public safety before granting consent to use land or part of land as a licensed premise. The application is for a change of use from a food and drink premises (ground floor) and sex services premises (first floor) to a pub. Part of the subject sites are currently operating under an existing liquor license (LIQH 400117434). Notwithstanding, the DA has been referred to CN's Licensed Premises Reference Group and NSW Police for comment.

The NSW Police referral, dated 10 December 2020, raises concern regarding the dispersion of patrons and the increase to alcohol-related crime and violence. The matters raised by the NSW Police and the response from the applicant are discussed further in this report under the provisions of the NDCP 2012 Section 4.04 Safety and Security.

The DA has been supported by a Plan of Management (PoM), Social Impact Comment (SIC) and a Crime Risk Assessment. These documents specifically address the proposed mitigation measures in accordance with Crime Prevention Through Environmental Design (CPTED) principles to reduce the likelihood of anti-social behaviour. The proposed nightclub will continue to be accountable under their existing Liquor License provisions as well the submitted PoM associated with the proposed expansion of the licensed premises. The PoM (as amended) includes additional mitigation measures to current operations to reduce the likelihood of anti-social behaviour, which are detailed further in this report under the provisions of the NDCP 2012 Section 4.04 Safety and Security.

For these reasons, the proposal is considered to be acceptable in respect to this clause.

Part 7 Additional Local Provisions - Newcastle City Centre

The development is proposed on land located within the Newcastle City Centre and as such the controls of Part 7 apply.

There are several requirements and objectives for development within the Newcastle City Centre, which includes promoting the economic revitalisation of the City Centre, facilitating design excellence and protecting the natural and cultural heritage of Newcastle. The subject site is zoned B4 Mixed-Use, as such controls relating to street frontages do not apply. The proposed works include predominantly internal building alterations and internal fitout and are not considered significant to warrant design excellence requirements. Further, the proposed development is not on a site greater than 1,500m², the development is not 45m in height, not within an Area A or B height of buildings map and not within Area A floor space ratio map and accordingly additional local provisions do not apply.

As such, the proposal is consistent with the objectives of Part 7 of the NLEP 2012.

5.2 Any draft environmental planning instrument that is or has been placed on public exhibition

There is no exhibited draft environmental planning instrument relevant to the application.

5.3 Any development control plan

Newcastle Development Control Plan 2012 (NDCP 2012)

The main planning requirements of relevance in the NDCP 2012 are discussed below.

Commercial Uses - Section 3.10

The development application proposes the change of use from an existing food and drink premises (ground floor) and sex service premises (first floor) to a pub including internal building alterations and internal fitout.

Apart from two new openings to the 13 Steel Street frontage for egress, the proposal does not change any built form addressing the streetscape in either Steel or King Streets. Limited controls under Section 3.10 are of direct relevance as requirements relating to the scale and position of new physical development do not apply.

The proposed hours of operation have been reduced from the existing approved hours of the King Street Hotel under DA2008/1094. The proposed hours of operation are as follows:

Monday	10am to 3:30am
Tuesday	10am to 3:30am
Wednesday	10am to 3:30am
Thursday	10am to 3:30am
Friday	10am to 3:30am
Saturday	10am to 3:30am
Sunday	10am to 12am

The PoM details the staggered closing times for the various bar areas within the venue to help facilitate crowd movement and dispersion onto the surrounding streets as the night progresses. Other additional mitigation measures are detailed further in this report under the provisions of the NDCP 2012 Section 4.04 Safety and Security.

Flood Management - Section 4.01

The site is identified as being flood prone land. Whilst the existing ground floor level would unlikely satisfy flood planning level of 2.84mAHD, the existing property risk is not being significantly increased and is acceptable. CN's Flooding Engineer has supported the proposal in this regard. The upper levels of the buildings satisfy flood refuge requirements as prescribed by this section. Relevant conditions of consent (**Attachment D**) have been included.

Mine Subsidence - Section 4.03

The site is located within a proclaimed Mine Subsidence District. The proposal, being for change of use with no major alterations, is deemed approval by Subsidence Advisory NSW.

Safety and Security - Section 4.04

The aims of this section are:

- i) To provide actual and perceived safe environments and minimise opportunities for criminal and anti-social behaviour.
- ii) To ensure features that contribute to safety and security are incorporated into new development.
- iii) To ensure the incorporation of Crime Prevention Through Environmental Design (CPTED) principles in new development.

A Social Impact Comment (SIC), Crime Risk Assessment report and CPTED plan have been submitted with the application. The existing nightclub, proposed to be extended into 13 Steel Street, Newcastle West, will continue to operate under an existing Liquor License (LIQH 400117434) subject to separate approval processes and will also operate in accordance with an updated Plan of Management (PoM).

The proposal was referred to the Licensed Premises Reference Group (LPRG) and NSW Police. The NSW Police advice raised concern regarding the dispersion of patrons and increase to alcohol-related crime and violence. The applicant has provided a detailed response to the issues raised by the NSW Police (**Attachment C**), and a summary is provided below:

Table 1: summary of NSW Police Submission and applicant's response

NSW Police	Applicant response
1) NSW Police are critical of the statistical information provided by King Street Hotel. Specifically, that the venue has recorded 8 assaults per year since 2013, with over 100,000 patrons utilising the venue each year.	1) The King Street Hotel can only comment on the assault data which has been presented in the <i>Violent Venues Scheme</i> .

<p>2) NSW Police allege this is a 'gross inaccuracy', sighting the Hotel's inclusion in the <i>Violent Venue's Scheme</i> as evidence to the contrary.</p>	<p>2) King Street Hotel was not on the <i>Violent Venues Scheme</i> between 1 July 2012 and 1 July 2017 (five years) because the number of incidents were below the threshold for inclusion on the <i>Violent Venues Scheme</i> (Level 1 or Level 2).</p> <p>3) The data provided demonstrates the average number of alcohol related assaults at the King Street Hotel is 8.08 incidents per year since January 2013. This includes the assumption of an average of seven assaults per year during the time period the venue did not appear on the <i>Violent Venue Scheme</i>. NB: if the venue had eight or more incidents it would have been included in the <i>Violent Venue List</i>.</p> <p>4) This is not a fair or reasonable measure when Police have provided crime data for McDonalds across the road.</p>
<p>3) The King Street Hotel has been on the declared premises list nearly every year since 2010 up until 2019 with between 12 and 22 incidents being recorded for each round. This equates to them being a Level 1, Level 2 and Level 3 Hotel on the violent venues list over these years.</p>	<p>5) As per the <i>Violent Venues Scheme</i> list published by Liquor and Gaming NSW, the statements by Police are factually incorrect.</p> <p>6) Between January 2010 and December 2019 (nine years), King Street Hotel was included in the violent venues scheme for a period of three and a half years. This is not consistent with the police assertion of almost every year.</p> <p>7) Between January 2010 and December 2019, the King Street Hotel has never been a Level 1 declared premises. This is not consistent with the police assertion the Hotel was a Level 1 premises over these years.</p> <p>8) The scheme did not take into account the size of the venue, the trading hours of each venue, capacity for number of patrons, or geographical location.</p> <p>9) On 1 January 2021, the Liquor and Gaming abandoned the <i>Violent Venues Scheme</i> because it was not considered to be a fair or reasonable assessment of licensed venues in NSW.</p>
<p>4) Addition of another Hotel directly connected to King Street Hotel and run under the same liquor licence would ensure the violence in and around this venue would increase.</p>	<p>10) Sanchez-Ramirez's recent medical journals (2016) acknowledge that this is a complex problem that is not simply solved by reducing the availability of alcohol.</p>

<p>5) <i>“Evidence has shown that when alcohol is available, consumption and associated problems increase. Based on the premises that drinking and drinking problems can be reduced by reducing the opportunity to obtain alcohol, one way to prevent alcohol problems is through policies that limit the availability of alcohol.”</i> (Sanchez-Ramirez 2002)</p>	<p>11) Sanchez-Ramirez whom Police quote from 2002, also published a paper in 2016 showing her research does not support that the reduction in the “availability of alcohol” reduces assault / violence or motor vehicle crashes / fatalities.</p>
<p>6) The hotel has stated they are not responsible for the incidents at King Street McDonalds. This statement is untrue.</p> <p>7) Although they are not responsible for all of the anti-social behaviour and crime, King Street Hotel patrons are part of the problem.</p>	<p>12) King Street Hotel contributes to the overall patronage of the 24-hour McDonalds restaurant located directly opposite the King Street Hotel.</p> <p>13) The Police statistics identify that 28% of the overall incidents which occur at McDonalds between 10pm and 5am are linked to persons who have been patrons of the King Street Hotel. That means 72% of the other people involved in alcohol related crime have come from other venues in the Newcastle CBD.</p> <p>14) King Street Hotel is prepared to commit to providing a security guard to work on the corner opposite the King Street Hotel to encourage persons to reduce noise, and anti-social behaviour. The guard will be in radio communication with the Security Team from the venue if additional resources are required.</p>
<p>8) The graph below is a representation of crime that has occurred between 10pm and 5am that is alcohol related at McDonalds King Street Newcastle between 2015 and 2020 (Attachment C).</p>	<p>15) If the Police can produce statistical information on alcohol related crime at a takeaway food restaurant, why have they not produced these statistics for the King Street Hotel?</p> <p>16) The Police data shows that in the past five years, there have only been two intoxicated persons dealt with by Police at McDonalds between 10pm and 5am. This does not support police comments that there are issues with intoxication on the street outside the venue.</p>
<p>9) A further breakdown of these statistics reveals that 26 of the incidents were linked to The King Street Hotel ie. patrons involved in these incidents had been at King</p>	<p>17) 72% of all persons affected by alcohol (who are involved in an incident) at McDonalds come from the other licensed premises in Newcastle to McDonalds for food.</p>

<p>Street Hotel prior to them occurring:</p> <ul style="list-style-type: none"> • 18 Assaults • 3 Crowd Control / Management • 3 Resist / Hinder / Assault Police • 2 Street Offences <p>That's a total of 28% of all incidents.</p>	<p>18) The problems and statistics presented by Police with this report relate to the McDonalds restaurant and this is a matter Police should be addressing with the property owners for McDonalds directly.</p> <p>19) King Street Hotel is prepared to provide an external security guard on the McDonalds side of the road to assist with resolving this problem.</p> <p>20) King Street Hotel is also prepared to work with McDonalds to develop a late-night precinct management plan to assist in the better deployment of security resources of both parties.</p>
<p>10) King Street Hotel has been closed since March 2020, so the statistics only apply to a period of four years, making the statistics even more damning.</p>	<p>21) The Police have provided statistical information on alcohol related crime at the McDonalds restaurant, but not the King Street Hotel.</p>
<p>11) The applicant has failed to discuss any strategies in relation to patron dispersal. McDonalds is located within 50 meters of the Hotel. If patrons are refused service at a licensed premises they are required under the <i>Liquor Act NSW 2007</i> to move more than 50 metres from the licenced premises.</p>	<p>22) This statement by Police is factually incorrect. The applicant has provided a Plan of Management, and Chapter 10 is titled '<i>Minimising disturbance to the neighbourhood</i>'. The control measures suitable for the management of the identified risks have been addressed in this chapter (Attachment B).</p> <p>23) The McDonalds restaurant is located 56 metres from King Street Hotel, so it does not offend the requirements of the <i>Liquor Act NSW 2007</i> for a person to move more than 50 metres from the venue.</p>
<p>12) An Acoustic report was completed by Reverb Acoustics. They have not conducted any noise assessments in relation to patrons leaving the venue and the general noise disturbances caused by intoxicated persons being removed from the venue.</p>	<p>24) It is not the usual practice of the acoustic report to consider the environment external to the premises which they are preparing an acoustic report for.</p> <p>25) The street outside the venue is not an environment that the acoustic engineer can provide treatments for, and it is unreasonable of Police to be critical of the acoustic report in this regard.</p> <p>26) The applicant has provided a Plan of Management, and Chapter 10 is titled '<i>Minimising disturbance to the neighbourhood</i>'.</p>

	The control measures suitable for the management of the identified risks have been addressed in this chapter (Attachment B) .
<p>13) No matter how responsible the behaviour of the licensee and their staff, the sale of hard alcohol by the hotel with the increased patronage will lead to an increase in intoxicated persons gathering on the street and moving between venues.</p> <p>14) Previous experience has shown that this is very likely to lead to an increase in street assaults, robberies, and other alcohol related crime. Alcohol related assaults are more vicious than non-alcohol related assaults.</p>	<p>27) The Police have offered a completely unquantified statement about the impact this development consent will have on the local environment.</p> <p>28) Police state - <i>Previous experience has shown that this is very likely to lead to an increase in street assaults, robberies, and other alcohol related crime.</i> What previous experience are police relying on to make this assumption, there has not been another hotel within the Newcastle CBD which has undertaken renovations or extensions of this nature in living memory?</p> <p>29) The Police have not provided any specific crime data for the existing King Street Hotel, and again rely of more generic BOCSAR data for alcohol related assaults on a statewide level to qualify this opinion.</p> <p>30) Based on the limited statistical information Police have provided it has already been demonstrated that the only two persons have been spoken with by Police at McDonalds in the past five years for intoxication. This is not consistent with the police allegations of intoxicated persons gathering on the street.</p>

4.04.02 General principles

The Crime Risk Assessment report, prepared by KDC, submitted with the application provides an assessment against the four CPTED principles: natural surveillance, access controls, territorial reinforcement and space management. These principles are reflected throughout the acceptable solutions of Section 4.04.02 of the NDCP 2012. An assessment against these acceptable solutions is provided below.

Exterior design and layout

- i) The proposed access point off King Street will provide clear access control.
- ii) The boundary of the site is clearly defined by the existing street wall.
- iii) No 'hidden spots' have been created on the site.

- iv) Appropriate lighting and signage for occupants is provided.
- v) A quality building design is provided that encourages use by the public.

Surveillance and sightlines

- i) The proposed bar area fronting Steel Street and the existing King Street entrance will provide an active street frontage and therefore will provide natural surveillance.
- ii) Appropriate day and night lighting to the building and adjoining public domain.
- iii) The use of technical supervisions such as 24/7 video surveillance (CCTV) to provide an additional layer of comfort for users of the space.

Lighting

- i) The development application proposes to incorporate external lighting across the ground level of the venue.
- ii) The lighting is located so there is no spillage to neighbouring residential properties.

Signage / Wayfinding

- i) The development includes the incorporation of signage around the curtilage of the existing building for wayfinding.
- ii) Signs are also displayed around the building advising that the building is under 24-hour camera surveillance and that any anti-social behaviour will be reported to the NSW Police.

Overall, the building design and functionality of the street frontage curtilage allows surveillance of all surrounding footpath areas through an increase of pedestrian traffic, presence of CCTV and physical security along both Steel and King Streets. The proposal achieves clear sight lines between private and public spaces, effective lighting of public places, suitable night activation of Steel and King Streets.

4.04.03 Principles for specific uses

The application is for a change of use from a food and drink premises (ground floor) and sex services premises (first floor) to a pub. As such, the application has been supported by a Plan of Management (PoM) identifying and addressing safety and crime impacts of the development. The PoM is to be a reactionary document and periodically updated to account for changing conditions of the venue in collaboration with operators and residents of surrounding land uses.

The venue is to be used and operated in accordance with the PoM for the lifetime of the development.

Following the Public Voice (PV) Committee meeting and concerns raised by CN and NSW Police regarding the dispersion of patrons and its impact on increased anti-social behaviour and alcohol-related crime and disturbance to the neighbourhood, a detailed revised PoM (dated April 2021) has been provided. The PoM details entry and exit procedures, patron movements, security and CCTV management (**Attachment B**). The following extracts from the PoM relevant to the concerns raised are listed below.

Dispersal of patrons / entry and exit procedures

- i) All entry and exit past 9pm will be from the King Street frontage entry.
- ii) The King Street entry will have a minimum of two security guards, two scanner personnel and one door host to facilitate various needs that occur outside a nightclub operation. On occasions where there are excess patrons staff levels will increase to cater for this.
- iii) One security guard is to be positioned at the rear of the line to help control noise levels and ensure loud and / or unruly behaviour is minimised.
- iv) Hosts and security staff will move through the line reminding patrons of noise levels. Failure to adhering to this request will result in removal from the line and request to leave the area. On egress patrons will be advised by security personnel to disperse quickly and quietly. Any patron congregation or "milling" around the venue will be discouraged.
- v) Additional crowd control bollards (30 metres) to help control queuing outside the venue and minimise disturbance to neighbours along the Steel Street side.
- vi) King Street Hotel operates the venue as a staggered process as the number of patrons change over the evening. The new and existing buildings have been designed for the ability to expand and decrease the rooms as the night progresses which greatly assists with the dispersal of patrons throughout the night.
- vii) Availability of hotel phone for stranded patrons with no communication means to contact transport.
- viii) The sale and supply of alcohol ceases 30 minutes prior to closing time (in accordance with LIQH 400117434).
- ix) Taxi marshals to extend operation / employment until 3:30am, commencing at 12am.
- x) 12-month trial courtesy bus to the Newcastle Interchange from 2am to 3:30am on Saturday nights.

- xi) Uber / parent pick up area on King Street is proposed by the applicant. However, such a proposal would require separate approval from CN Traffic Committee. This proposal is scheduled to be considered with CN Traffic Committee on 19 April 2021, with an Officer's recommendation of support.
- xii) Security officer positioned on McDonalds Corner from 12am to 30 minutes after closure of the venue. This guard will have a phone and will be able to readily address issues that may arise in the area.
- xiii) Security officer employed from 2am to 3:30am on King Street Hotel corner positioned to help facilitate respectful cooperation of patrons and encourage walking to Newcastle Interchange via Steel Street and Hunter Street.

Anti-social / alcohol-related behaviour

- i) Procedures for dealing with disruptive and anti-social behaviour.
- ii) Staff training and education in the Responsible Service of Alcohol (RSA).

Safety and security

- i) King Street Hotel is part of the Newcastle Entertainment Precinct (NEP), a shared barring system.
- ii) Patrons identified as banned in the scanning system are given flyers to contact NEP for reason and length of NEP ban.
- iii) King Street Hotel employs a security contractor, their security plan of management is implemented for their staff.
- iv) Security staffing levels for the internal operations associated with the King Street Hotel shall be no less than the industry accepted standard of one security manager plus one additional security officer per 100 patrons (1 + 1:100).
- v) Security staffing levels for external operations shall be no less than one security officer per 100 patrons. This is in addition to two security guards at entrance of the venue, one guard positioned at the end of the line, one security officer positioned at the corner of McDonalds from 12am to half an hour after close, one security officer positioned at the King Street corner from 2am to 3:30am as detailed in the PoM (as amended).
- vi) All exits can be used for ejecting patrons. The venue management policy recommends that any ejected patrons are processed through front door on the right-hand side, have their details and reason for ejection given to door host to record in the incident book.
- vii) Upon leaving the ejected patrons are asked to leave the vicinity of the premises (50m) in accordance with *Liquor Act 2007*. Failure to do so will result in the NSW Police being called.

CCTV and lighting

- i) Signage is located around the outside of the building asking patrons to leave the area quietly and respect the neighbourhood.
- ii) Addition of greater lighting on Steel Street and adjoining laneway exits to ensure greater visual surveillance of patrons prior and post venue operation.
- iii) King Street Hotel operates a Close-Circuit Television System (CCTV) in accordance with regulatory legislation and licensing obligations. Increased CCTV added into the laneway and Steel Street exits to aid NSW Police and the venue in resolving and identifying anti-social behaviour.
- iv) Body cameras for guard use when dealing with possible problems.

Community consultation

- i) The operators of the venue will arrange bi-monthly meetings with NSW Police to assess and gauge how the venue is operating – considering both patron and resident needs.
- ii) Current meetings with McDonalds (March 2021) have identified a number of strategies that will aid patron service and movement and improve the amenity of the neighbourhood. These strategies will be added to a Precinct Management Plan to be produced with input from McDonalds, NewWest Community Group and NSW Police.

Based on the above, the amended PoM addresses all relevant criteria that can reasonably be addressed under a DA and is considered satisfactory in this regard. The amended PoM includes additional safety and security measures to improve the overall operations of the venue. A condition requiring the implementation of a PoM for the lifetime of the development has been included in the Draft Schedule of Conditions at **Attachment D**.

Social Impact - Section 4.05

The aims of this section are:

- i) To provide clear guidelines as to the level of assessment required for a development application.
- ii) To consider both positive and negative social impacts in achieving socially sustainable development through an evidenced based approach.
- iii) To ensure consultation is undertaken with the community, stakeholders and relevant groups to identify public values and concerns.
- iv) To consider how potential social impacts of change can be best managed and mitigated.

The proposal includes a Social Impact Comment (SIC) within the Statement of Environmental Effects which details the envisaged economic opportunities including jobs for local community members. The SIC details the proposal as an entertainment facility vital to Newcastle's growth by attracting university students and the like to the City Centre. The SIC also states that the proposal aligns with the Council adopted *Newcastle After Dark Strategy*.

The submitted PoM addresses the responsible service of alcohol by stating that the licensee *will ensure that all staff involved in the sale and supply of liquor has completed an approved NSW Responsible Service of Alcohol (RSA) Course and holds a valid NSW Competency Card and / or interim certificate*. Current liquor licensing conditions imposed on the venue include the restrictions on the sale of certain alcohol including shots, shooter, slammers and bombs, ceasing alcohol sales 30 minutes prior to closing and the prohibition of patrons stockpiling drinks. The PoM also demonstrates that staff are trained in identifying and preventing intoxication, verifying proof of age and drug detection. The PoM also details the deployment of RSA marshals in accordance with the *Liquor Regulation NSW 2018*.

Further, it is acknowledged that the applicant will also be required to provide a Community Impact Assessment for the application for a liquor licence to Liquor and Gaming NSW prior to a liquor license being approved.

The potential impacts of the development are localised and considered manageable in operation. Suitable conditions regarding hours of operation, CCTV management, maximum patron capacity and a final comprehensive PoM are included in the draft development consent conditions (**Attachment D**). The operational and physical elements of the development that can be reasonably considered and managed through the development application process have been satisfactorily addressed.

Land Contamination - Section 5.02

Land contamination has been considered in this assessment report, in accordance with SEPP55.

Vegetation Management - Section 5.03

The proposal does not involve the removal of any trees.

Aboriginal Heritage - Section 5.04

Reference to the Aboriginal Heritage Information Management System confirmed that there are no sites of Aboriginal significance recorded on the site.

Heritage Items - Section 5.05

This issue is discussed under Clause 5.10 Heritage of the NLEP 2012.

Archaeological Management - Section 5.06

The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or the NLEP 2012 as an '*Archaeological Site*'.

Newcastle City Centre - Section 6.01

The subject site is located within the Newcastle City Centre within the 'West End' precinct. Limited controls under Section 6.01 are of direct relevance as requirements relating to the scale and position of new development do not apply. Considering the minor scale of physical works proposed which are predominantly internal, the application is consistent with the relevant performance criteria of this control.

Heritage Conservation Areas - Section 6.02

The subject site is located within the Newcastle City Centre Heritage Conservation Area. Both buildings on the subject sites are identified as 'Contributory 2'. The application is for a change of use to a pub with internal alterations and additions and internal fitout. The proposed external works are restricted to additional openings to the 13 Steel Street frontage to allow for egress. The proposed works are recessive and non-intrusive to the existing streetscape characterised by contributory buildings of varying significance. As limited controls under Section 6.01 are of direct relevance as requirements relating to the scale and position of new development do not apply and the proposed development respects the heritage setting of the area, the application is considered acceptable in regard to the objectives of this section.

Traffic, Parking and Access - Section 7.03

The subject site gains pedestrian only access via Steel Street, gaining vehicular access via a Right of Carriageway (ROW) from King Street at the rear. As the existing building takes up the entirety of the developable site, there is no opportunity to provide on-site carparking. As such, a historic deficiency applies.

The proposal is for a change of use to a food and drink premises with a maximum patronage of 1,300 persons across both sites. Whilst much of the demand generated by the venue will be outside normal business operating hours, and outside peak traffic periods it is likely to generate some car parking and traffic demands.

NDCP 2012 car parking requirement is one space per 60m² as a non-residential use within the Newcastle City Centre area. The current use of the site as a food and drink premises (ground floor) approved as part of DA2004/0450 and the previous use of the first-floor as a seven-bedroom brothel approved as part of DA1995/0394 generates a carparking requirements of eight car parking spaces. Due to the location of the development within the Newcastle City Centre, and the limited space available onsite, a concession for the required car parking spaces was granted at the time of the approval.

As the floor area of the building is not to be increased, the historic deficiency can be applied to the proposed change of use and therefore the development is considered acceptable in relation to parking.

Section 7.05 - Energy Efficiency

The proposal is acceptable having regard to this section.

Stormwater- Section 7.06 and Water Efficiency - Section 7.07

The proposed works do not increase the existing building footprint and the amount of hard surface on site is to remain unchanged. Stormwater management requirements do not apply.

Waste Management - Section 7.08

Demolition and waste management will be subject to conditions recommended to be included in any development consent to be issued.

A detailed Operational Waste Management Plan is to be submitted to the written satisfaction of CN prior to the issue of a Construction Certificate. A requirement to provide a detailed Operational Waste Management Plan is included as conditions of development consent (**Attachment D**).

Development Adjoining Laneways - Section 7.11

The site is located adjacent to an unowned parcel of land to the east of the site. This parcel of land currently operates as a Right of Carriageway (ROW) servicing several buildings along Steel Street (reference: Vol 4945 Fol 154). The proposed extension of the King Street Hotel into 13 Steel Street, Newcastle West requires use of this ROW for fire egress. As the subject site is benefited by a ROW across this parcel of land, the use of this land for egress is acceptable. The purpose of the ROW is prescribed under the *Conveyancing Act 1919*.

DA2013/0703 has been approved (1 October 2013) for temporary use of the laneway as a beer garden at 440A King Street, Newcastle West. As the ownership of the laneway has been further investigated as part of this application and the ownership is unclear, a condition has been included in the Draft Schedule of Conditions at **Attachment D** that DA2013/0703 and DA2013/0703/02 shall be surrendered prior to the issue of any Construction Certificate. The DA has been amended to remove any component relating to the laneway operations. No use of the laneway for a temporary beer garden is proposed.

Development Contributions

The EP&A Act enables CN to levy contributions for public amenities and services. The proposed development would attract a development contribution to CN, as detailed in CN's Development Contributions Plans.

A condition requiring this contribution to be paid has been included in the Draft Schedule of Conditions at **Attachment D**.

5.4 Planning agreements

No planning agreements are relevant to the proposal.

5.5 The regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the EP&A Act and Environmental Planning and Assessment Regulation 2000. In addition, compliance with AS2601 – Demolition of Structures will be included in the conditions of consent, in relation to any demolition work.

Fire safety consideration has been assessed in accordance with the relevant provision of the Environmental Planning and Assessment Regulation 2000. The application was reviewed by CN who have recommended relevant conditions **(Attachment D)**.

The site is identified as being within the coastal zone and this is discussed under the provisions of the relevant policy State Environmental Planning Policy (Coastal Management) 2018.

The proposal is considered acceptable in the context of the provisions of the policy.

5.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Impacts upon the natural and built environment have been discussed in this report in the context of relevant policy, including the NLEP 2012 and the NDCP 2012 considerations. In addition, the following social and economic impacts are further considered below.

Noise

The application was supported by a Noise Impact Assessment (NIA) which has been reviewed by CN, and consideration has been given to the noise impact upon current and future residential receivers. The report has assessed the operation of the premises against the Office of Liquor and Gaming Authority (OLGA) noise criteria, which requires the following:

- i) *The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.*
- ii) *The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) between 12:00 midnight and 7:00 am at the boundary of any affected residence.*

The NIA specifies that the proposed expanded operations of the King Street Hotel can meet compliance with the required acoustic criteria.

Further noise control recommendations including sound attenuation glazing, doors and ceiling panels, and the operation of a noise limiter on site are outlined within the NIA and are included as conditions of development consent (**Attachment D**).

The NIA has also undertaken an assessment on potential patron noise outside the premises. The assessment has assumed worst-case scenario whereby 20-30 patrons may be entering or leaving the premises talking with raised voices at the entrance / exit of the venue and 50-60 patrons speaking loudly whilst lined up awaiting entry.

To help ensure the requirements of the Office of Liquor and Gaming Authority (OLGA) are satisfied, the NIA has adopted a planning level in the adjacent residential area, after midnight of 45dB(A),L10 being equal to the background noise level in the area and sleep arousal criterion of 60dB(A),Lmax. An average noise level criteria of 50dB(A), Leq (15min) was determined.

The assessment calculated the following impacts:

- i) Noise levels at nearest residents from persons lined up: 42-44 dB(A);
- ii) Noise from persons entering/exiting the premises: '<50dB(A)';
- iii) Noise from smaller groups of patrons leaving the premises traveling through the area: <40dB(A) Leq; and
- iv) Noise above 60dB(A), Lmax are possible if patrons congregate in exposed locations directly adjacent to adjoining premises which could awaken residents.

There is limited industry and / or government endorsed guidelines specifically addressing patron noise. The assessment of noise from patron behaviour, particularly in public areas, are based on educated assumptions and involves uncertainties which makes this type of assessment complex. For example, a small line of people being very loud for whatever reason will cause significantly more impacts than a longer line of patrons speaking more calmly.

Notwithstanding, the NIA has demonstrated that patron noise can meet appropriate criteria. However, this assumption cannot be completely assured given all the factors which could occur in practice. As such, the NIA has recommended that additional security provisions should be employed to help ensure loud and / or unruly behaviour is minimised at critical times. Appropriate management strategies have been demonstrated within the Plan of Management and are included as conditions of development consent (**Attachment D**).

Safety and Security

Safety and security have previously been considered in this report in relation to the NDCP 2012 provisions and considered acceptable. Relevant conditions of consent are included in the recommended draft condition set (**Attachment D**), as previously referenced in this report.

The following table provides a comparative summary of the key management and operational procedures currently implemented in the venue's PoM (prepared by King Street Hotel dated December 2019) and the additional procedures and management strategies proposed under this DA to minimise the likelihood of anti-social behaviours.

Table 2: summary comparison of King Street Hotel Plan of Managements

Current King Street Hotel Plan of Management (dated December 2019)	Proposed King Street Hotel Plan of Management (dated April 2021)
<ol style="list-style-type: none"> 1) Security staffed at the industry standard of one security officer plus one additional security officer per 100 patrons. 2) No queue management. 3) Taxi marshal. 4) CCTV policy statement. 5) Complaints handling procedures via telephone. 	<ol style="list-style-type: none"> 1) Security staffed at the industry standard of one security officer plus one additional security officer 100 patrons. 2) One security guard positioned on the public footway at the McDonalds corner, being 19 Steel Street Newcastle West, from 12am to 30 minutes after the closure of the King Street Hotel. 3) One security guard positioned on the public footway at the Travelodge corner, being 12 Steel Street Newcastle West, from 2am to 3:30am. 4) External queuing operations to be staffed by a minimum one security officer at the rear of the line and two security staff managing the entrance door. One additional security officer is required per 100 additional patrons lining outside the venue. 5) Portable crowd control bollards to be set up along the King and Steel Street frontages to help control queuing outside the venue. 6) The entrance queue is to cease at the northern boundary line of 15 Steel Street, Newcastle West (Lot 1 DP 798860). At no time is the queue to restrict access to the fire door at 13 Steel Street Newcastle West (Lot 1 DP 798860).

	<p>7) Taxi marshal to extend to 3:30am, commencing from 12am.</p> <p>8) New designated Uber / parent pick up area along King Street. NB: This will be considered by CN's Traffic Committee on 19 April 2021.</p> <p>9) Courtesy bus to operate between 2am and 3:30am to manage the dispersion of patrons transporting patrons to Newcastle Interchange.</p> <p>10) Implementation of CCTV Policy with additional CCTV cameras internally and external to the buildings.</p> <p>11) Additional external lighting to the Steel Street frontage.</p> <p>12) Commitment to regularly meet with community members, police and surrounding operators to improve amenity of the area.</p> <p>13) Complaints handling procedure and operation of two mobile phones for direct contact from concerned residents or operators.</p>
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Notwithstanding the proposed increase to patrons numbers, the additional proposed management and operational procedures to minimise the risk of anti-social behaviours as outlined in the Plan of Management Version 13.0 (prepared by King Street Hotel dated April 2021), and as summarised above, provides an enhanced overall outcome to the ongoing operations of the venue.

5.7 The suitability of the site for the development

The site is suitable for the proposed development as it is consistent with the objectives of the B4 Mixed-Use zone under the NLEP 2012 and generally compliant with relevant controls of the NDCP 2012. It is considered that adequate assessment has been undertaken determining that there will be acceptable impact to the amenity of the natural or built environments as a result of the development. This site can facilitate development that is in keeping with the mixed-use characteristics of Newcastle West.

The proposed development is located in the City Centre. The close proximity of the site to existing services and amenities, public transport and other surrounding suburbs and centres, makes this a suitable site for the ongoing operation as a 'pub', in turn benefiting the community, both socially and economically.

The design of the development has considered the surrounding development and is compatible with the surrounding land use. Adequate services and waste facilities are available to the development. Further, the proposed development provides additional employment opportunities in the ongoing operation of the development.

The constraints of the site have been considered in the proposed development, which includes flooding and mine subsidence.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development. The operation of the development is considered to result in an improved outcome for the site.

5.8 Any submissions made in accordance with this Act or the regulations

The application was publicly notified for a period of 14 days between 30 July 2020 and 13 August 2020 in accordance with CN's Community Participation Plan (CPP). During the notification period two submissions were received, an additional 15 submissions were subsequently received outside the formal notification period, including one Public Voice request.

The key issues raised within the submissions have been discussed previously in this report. The following table provides a summary of the other issues raised and a response to those issues.

Table 3: summary of objections

Issue	Comment
Zoning objectives	The site is located in the B4 Mixed-Use zone under the NLEP 2012 and the proposed development is permissible with development consent as a 'pub' which is a type of 'food and drink premises'. The proposed development predominantly operates at night and is unlikely to impact the viability of the Newcastle City Centre. The application has been supported by a Plan of Management (PoM), Noise Impact Assessment, Social Impact Comment and Crime Risk Assessment Report which details the development will not cause unreasonable impact to the surrounding land uses.
Interaction of multiple development consents operating on the subject sites	The current operations of the King Street Hotel are primarily conditioned under DA approval DA2008/1094. Whilst several subsequent development consents have been issued on the site, CN as an authority cannot dictate how an application is to be lodged. Notwithstanding, multiple development consents can operate on the same parcel of land and the granting of further development consent does not operate to invalidate prior consents nor does a development consent take precedence over an earlier approval (unless conditioned to do so).

Concerns over length and nature of notification process	The proposal was notified in accordance with CN's Community Participation Policy.
Site location and relationship with surrounding land uses	The site is zoned as B4 Mixed-Use and 'pub' is permitted with consent. It is noted that due to the proximity of the development site to sensitive residential land uses, sensitivity to noise and anti-social behaviours as a result of the dispersion of patrons could be generated in the absence of any mitigation measures. The application has been supported by a PoM which addresses preventative measures and strategies to manage the dispersion of patrons to minimise disturbance to the surrounding neighbourhood amenity. Social impact and safety and security have previously been considered in this report in relation to DCP provisions. The proposal is considered acceptable in relation to these matters.
Noise	The application is provided with a Noise Impact Assessment (NIA) which has been reviewed by CN, and consideration has been given to the noise impact upon current and future residential receivers. The NIA specifies that the proposed expanded operations of the King Street Hotel can meet compliance with the required acoustic criteria. Relevant conditions of consent are included in the recommended draft condition set (Attachment D) , as previously referenced in this report.
Anti-social behaviour, crime and public safety	<p>The DA has been supported by a Plan of Management (PoM), Social Impact Comment (SIC) and a Crime Risk Assessment. These documents specifically address the proposed preventative measures in accordance with CPTED principles to reduce the likelihood of anti-social behaviours. Social impact and safety and security have previously been considered in this report in relation to the NDCP 2012 provisions. The proposal is considered acceptable in relation to these matters. An amended Plan of Management was received addressing relevant comments raised during the PV Committee meeting.</p> <p>The operational and physical elements of the development that can be reasonably considered and managed through the DA process have been satisfactory addressed. Relevant conditions of consent are included in the recommended draft condition set (Attachment D), as previously referenced in this report.</p>

Public lighting	The application is supported with a CPTED plan demonstrating appropriate natural and mechanical surveillance, lighting, signage and wayfinding. Safety and security have previously been considered in this report in relation to the NDCP 2012 provisions. The proposal is considered acceptable in relation to these matters. Relevant conditions of consent are included in the recommended draft condition set (Attachment D), as previously referenced in this report.
Number of licensed premises in the Newcastle Local Government Area (LGA)	This concern is not a matter of consideration pursuant to Section 4.15 of the EP&A Act.
Hours of operation	The proposed hours of operation have been reduced from the existing approved hours of the King Street Hotel under DA2008/1094. As discussed in the report above, the PoM details the staggered closing times for the various bar areas within the venue to help facilitate crowd movement and dispersion onto the surrounding streets as the night progresses. The proposal is considered acceptable in relation to these matters.

Public Voice (PV) Committee

The proposal was considered at the PV Committee Meeting held on 16 February 2021. The issues raised included increase of anti-social behaviour, existing and potential increase of alcohol-related crime, relationship with surrounding land uses and operators, lodgement of separate DA, inadequate notification scope of DA, the NSW Police submission, increased patron numbers, fire safety and egress and CCTV access.

Additional issues raised during the PV Committee Meeting and a response to those issues are summarised in the table below.

Table 4: *summary of objections raised during Public Voice Committee Meeting held on 16 February 2021*

Issue	Comment
NSW Police submission	In accordance with the NDCP 2012, DAs for licensed premises may be referred to the NSW Police for comment. The application to expand the existing operations of the King Street Hotel was subsequently referred to the NSW Police for comment. A response from the NSW Police was received 5 August 2020 and 10 December 2020.

	<p>The applicant's response to the NSW Police submissions has previously been considered in this report under Section 4.04 Safety and Security of the NDCP 2012.</p>
<p>Increased patron numbers and capping of patron numbers at certain times</p>	<p>The submitted PoM details that the King Street Hotel operates as a staggered process as the number of patrons change over the evening. The new and existing buildings have been designed for the ability to expand and decrease the rooms as the night progresses which greatly assists with the dispersal of patrons throughout the night. Safety and security have previously been considered in this report in relation to the NDCP 2012 provisions. The proposal is considered acceptable in relation to these matters.</p> <p>Relevant conditions of consent are included in the recommended draft condition set (Attachment D), as previously referenced in this report.</p>
<p>Fire safety and egress</p>	<p>The application has been supported by a Fire Engineering Report prepared in accordance with relevant Performance Requirements of the Building Code of Australia. This report has been reviewed by CN, and the proposed expanded operations of the King Street Hotel are able to meet compliance with the required fire safety requirements.</p> <p>Relevant conditions of consent are included in the recommended draft condition set (Attachment D), as previously referenced in this report.</p>
<p>CCTV access</p>	<p>The application has provided a detailed CCTV Policy which demonstrates the placement of 36 CCTV surveillance across the entire site, including the external areas of the site.</p> <p>Relevant conditions of consent are included in the recommended draft condition set (Attachment D).</p>

The development application has been supported by a Plan of Management (PoM), Social Impact Comment (SIC) and a Crime Risk Assessment. These documents specifically address the proposed preventative measures in accordance with CPTED principles to reduce the likelihood of anti-social behaviours. The proposed nightclub will continue to be accountable under their existing Liquor License provisions as well the submitted PoM associated with the proposed expansion of the licensed premises. With the additional measures proposed as part of the PoM, the proposed development is unlikely to pose any additional impacts to the adjoining properties.

All submissions received have been considered, and as such concerns raised in the submissions do not warrant the refusal of the application in its current form or necessitate any further amendments.

The proposed development has been found to be consistent with the objectives and relevant controls of the NLEP 2012 and the NDCP 2012 as discussed elsewhere within this report.

5.9 The public interest

The proposed development is consistent with the aims and controls contained in the NLEP 2012 and the NDCP 2012 and other relevant environmental planning instruments discussed within this report. The development is consistent with the objectives of the B4 Mixed-Use zone.

The operational and physical elements of the development that can be reasonably considered and managed through the DA process have been satisfactorily addressed and, in some instances, exceed the requirements. The proposed development will therefore have acceptable impact on the natural or built environment, including any significant impacts on the amenity of adjoining commercial and residential premises. The development is in the public interest as it provides continued employment within the established City Centre precinct and encourages greater viability to the existing night-time economy. The development will result in an improved operation on site with the removal of the temporary use of the laneway, additional security officers, adjacent pick-up area, courtesy bus, taxi marshal, and reduced operating hours of operation.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment. The development is in the public interest and will allow for the orderly and economic development of the site.

6.0 CONCLUSION

The proposal is acceptable against the relevant heads of consideration under Section 4.15(1) of the EP&A Act and is supported on the basis that the recommended conditions in **Attachment D** are included in any consent issued.

ATTACHMENTS

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|-----------------------------|---------------------------------------------------------------------------------------------------------------|
| Item 6 Attachment A: | Submitted Plans, 13 and 15 Steel Street, Newcastle West |
| Item 6 Attachment B: | Plan of Management, 13 and 15 Steel Street, Newcastle West |
| Item 6 Attachment C: | NSW Police Submission and Applicant Response to NSW Police Submission, 13 and 15 Steel Street, Newcastle West |
| Item 6 Attachment D: | Draft Schedule of Conditions, 13 and 15 Steel Street, Newcastle West |

Item 6 Attachment E: Processing Chronology, 13 & 15 Steel Street, Newcastle West

Item 6 Attachments A - E distributed under separate cover