

**SUBJECT: DAC 15/06/21 – 99 FREDERICK STREET, MEREWETHER – DA2020/01212 – PUB – ALTERATIONS, ADDITIONS AND SIGNAGE**

**APPLICANT: EJE ARCHITECTURE**  
**OWNER: KDA NOMINEES PTY LTD**  
**NOTE BY: GOVERNANCE**  
**CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMENT**

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## PART I

### PURPOSE

An application has been received seeking consent for pub - alterations, additions and signage.

The site is known as 'The Beaches Hotel' at 99 Frederick Street, Merewether and is occupied by a multi-storey building used as a food and drink premises – pub.

The submitted application was assigned to Senior Development Officer, Ian Clark, for assessment.

The application is referred to the Development Applications Committee for determination, because more than 25 individual written submissions of objections were received in response to the public notification of the application.

The application was publicly notified in accordance with City of Newcastle's (CN) Community Participation Plan (CPP), with 114 submissions being received within the notification period.

The main issues raised in the submissions include:

- i) Acoustic impacts
- ii) Privacy impacts
- iii) Antisocial behaviour
- iv) Change of use



**Subject Land:** 99 Frederick Street, Merewether

- v) Parking impacts
- vi) Hours of operation

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 Committee Meeting held on 21 April 2020. The issues discussed by the objectors' representative and the applicant are detailed in **Section 3.0**.

### Issues

The main issues identified in the assessment of the application and / or raised in the submissions are as follows:

- i) Hours of operation
- ii) Acoustic impacts
- iii) Impacts on the amenity of residential properties in the locality
- iv) On street parking

### 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 1979) and is considered to be acceptable subject to compliance with appropriate conditions.

### RECOMMENDATION

- A. That DA2020/01212 for pub - alterations, additions and signage be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- B. That those persons who made submissions be advised of CN's determination.

### Political Donation / Gift Declaration

Section 10.4 of the EP&A 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 subject site comprises Lot 1, DP 7975, 99 Frederick Street Merewether and is an irregular corner site (approximately 1797m<sup>2</sup>). The site has frontages to Frederick Street (44m), Ridge Street (54m) and Ranclaud Street (18m).

The site is known as 'The Beaches Hotel' and is occupied by a multi-storey building used as a food and drink premises – pub. The multi-storey pub has frontages to Frederick and Ridge Streets. An existing driveway cross over on Ridge Street frontage provides vehicular access to 14 parking spaces located at the rear of the building. Footpaths traverse all the street frontages of the site.

The site is a listed local heritage item, 'Beach Hotel' (I299), as identified within Schedule 5 of the Newcastle Local Environmental Plan (NLEP 2012). The site is within the vicinity of another local heritage item 'Holy Family Parish Hall' (I306) at 19 Ridge Street.

The wider area has a broad mixture of developments including single and double storey commercial, retail and residential along Frederick and Ridge Street. The location is within the coastal environment with views to the east of the ocean and Jefferson Park.

### 2.0 THE PROPOSAL

The applicant seeks consent to undertake alterations and additions to the existing pub including two signs. The proposed works consist of:

#### The Lower Ground Floor

Currently used as a cafe and includes the 'back of house' areas for the pub. Changes include:

- i) Layout of the café
- ii) New stairs from lower ground floor to ground floor terrace
- iii) New accessible step ramp to provide equitable access from the footpath to the lower ground floor

#### The Ground Floor

Continued use as a bar, gaming and dining area. This area currently includes the location of live music venue, which is proposed to move to the first floor. The changes on the ground floor include:

- i) Feature staircase from ground floor to first floor
- ii) Changes to existing terrace (external) including:
  - a) Realignment of existing stairs from Frederick Street and the addition of beach showers for public use. This included the addition of a gate access to the existing terrace
  - b) Existing windows and doors are proposed to be replaced throughout the building

### The First Floor

Continued use as a bar and dining area and new live music venue. The changes include:

- i) Removal of manager's accommodation
- ii) New sanitary facilities, stair void, storage and office (located toward the west of the building)
- iii) Eastern terrace converted to floor area
- iv) New terrace area replacing the additions of an awning, shade structure and glazed roof (for terrace area below)
- v) New bi-folding doors to open out into the existing southern terrace area
- vi) Existing balustrade on southern terrace to be replaced with 1800mm high glazed acoustic barrier

### Signage

The proposal includes the removal of several signs and the provision of a ground level flush wall business identification sign on the Ridge and Frederick Street corner, which is non illuminated and states 'Beach Hotel'. It is also proposed to install a flush wall business identification sign on the first-floor western elevation that is non-illuminated and states 'Beach Hotel'.

### Hours of Operation

Since 1986, a total of 21 development consents have been issued for the subject site for various alterations and additions to the pub, including approval in December 2012 for a new restaurant.

The entire premises, except for the restaurant on Level 1, currently operates with no specific conditions previously imposed by CN which restrict the trading hours. Condition 33 of development consent DA2011/1197 dated 10 December 2012, limits the trading hours of the restaurant to Monday to Saturday 5am – 12am midnight and Sunday 10am – 10pm.

The existing trading hours of the pub are based on a Liquor Licence Approval number: LIQH400117094 (the 'Liquor Licence') that was approved 01/07/2008. The liquor licence also incorporates a gaming machine licence.

The pub has 17 electronic gaming machines approved under this liquor licence and the applicant has advised there is no change to the approved number of gaming machines as a result of this proposal. The terms of the liquor licence provide that all gaming at the pub must cease between the hours of 4:00am and 10:00am, as well as public holidays.

The submitted Statement of Environmental Effects (SEE) confirm the existing approved hours of the pub are in accordance with the Liquor Licence as follows:

Day	Ground Floor	Lower Ground and First Floor
Monday to Saturday	5am to 3am	5am to 12am (midnight)
Sunday	10am to 10pm	10am to 10pm

#### Proposed Hours

There are no changes proposed to the operating hours, with the exception of the first-floor terrace facing Ridge Street which is proposed to operate Monday to Sunday between 10am – 10pm.

It is recommended that conditions be placed on the consent to formalise the trading hours for the premises to enable consistency between the liquor licence and the hours of operation. Further detailed discussion and assessment regarding the trading hours is within **Section 5.6** of this report.

#### Maximum number of patrons

The existing patron capacity of the pub specified in condition 34 of development consent DA2011/1197 is 1500 persons. The current proposal includes a change to the maximum patron numbers by reducing this to 1230 (50 people lower ground floor, 740 people ground floor and 440 first floor).

#### Amended Plans

In response to a request for further information from CN, the applicant submitted an amended SEE and architectural plans in March 2021. The amendments to the plans include: retention of heritage item building fabric, removal of illuminated signage and removal of proposed window shutters. Acoustic and privacy mitigation measures along the Ridge Street first floor terrace were included on the plans as recommended in the submitted acoustic report and to address privacy impacts.

A copy of the current amended plans is included at **Attachment A**.

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to **Attachment C**).

### **3.0 PUBLIC NOTIFICATION / PUBLIC VOICE COMMITTEE**

In accordance with CN's CPP, the application was publicly notified for a period of 14 days between 5 November and 15 November 2020. During the notification period, 114 submissions of objections were received. The concerns raised by the objectors in respect of the proposed development are summarised as follows.

#### **a) Statutory and Policy Issues**

- i) Change of use – The proposal is changing from a pub to a nightclub and is not consistent with the objectives of the B1 Neighbourhood Centre under the NLEP 2012 and conflicts with the surrounding uses
- ii) Heritage conservation - Adverse heritage impact on the existing facade

#### **b) Amenity and Social Issues**

- i) Privacy – Direct views across Ridge Street to existing residential properties
- ii) Noise – Increased capacity on Level 1 and the outdoor area will result in more noise
- iii) Anti-social behaviour – Increased patronage will result in more anti-social behaviour, such as litter, property damage, fighting and other alcohol related behaviour

#### **c) Amenity and Social Issues**

- i) Parking impact assessment – Increased patronage will result in further on-street carparking impacts

#### **d) Miscellaneous**

- i) Hours of operation – the proposed hours of operation will impact on the amenity of the area

The objectors' concerns are addressed under the relevant matters for consideration in the Section 5.8 of this report.

#### **Public Voice Committee**

The proposal was considered at a Public Voice Committee Meeting held on 21 April 2020. The Public Voice Committee heard from a representative of the objectors who discussed their concerns regarding acoustic impacts, inadequate acoustic report, change of use (nightclub), privacy impacts, increase in number of patrons, increase in number of poker machines, inconsistency with zone objectives, increase of anti-social behaviour and patron numbers per floor.

The applicant presented a response to the issues raised during the public voice meeting by written submission dated 5 May 2021. The applicant's response has been considered during the assessment and further comments are included in Section 5.8.

#### **4.0 INTEGRATED DEVELOPMENT**

The site is located within a declared mine subsidence district under Section 20 of the *Coal Mine Subsidence Compensation Act 2017*. Development in a Mine Subsidence District requires approval from Subsidence Advisory NSW (SA NSW). Conditional approval for the proposed development has been granted by SA NSW, via the stamping of plans prior to the lodgement of the application. The application was not lodged as integrated development as the necessary approvals were obtained prior to lodgement.

#### **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 1979, as detailed hereunder.

##### **5.1 Provisions of any environmental planning instrument**

###### **State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)**

SEPP 55 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 being used as a pub and no change of use is proposed. Further, CN's 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)**

This policy aims to protect and manage the New South Wales coast and foreshores and requires the consideration of specific criteria based on the type of coastal area affected.

*Clause 5 – Land to which the policy applies:* The policy applies to land the whole or any part of which is within the 'coastal zone'. The site is mapped as being within the 'coastal use area'.

*Clause 14 - Development on land within the coastal use area:* Clause 14 provides that development consent must not be granted to development on land that is within the coastal use area unless the consent authority is satisfied that the proposed development will not cause an adverse impact on:

- i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability
- ii) overshadowing, wind funneling and the loss of views from public places to foreshores
- iii) the visual amenity and scenic qualities of the coast, including coastal headlands
- iv) Aboriginal cultural heritage, practices and places
- v) cultural and built environment heritage

The site is located within a well-established urban setting, with development existing on the site for many years, there are no likely impacts to this environment, particularly in relation to the biophysical environment and coastal processes and maintaining public access to the foreshore. In addition, the site contains an existing heritage item with the proposal supported by a Heritage Impact Statement (HIS).

CN's Development Officer (Heritage) has considered the proposal and the HIS, and is satisfied that the submitted amended plans address heritage item retention values satisfactorily. Relevant conditions with regard to the heritage considerations have been included in the draft schedule of conditions. Further discussion with respect to heritage is included within the NLEP 2012 assessment below.

*Clause 15 - Development in coastal zone generally – development not to increase risk of coastal hazards:* Clause 15 specifies that development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. The proposed development as a result of its siting is not considered likely to cause increased risk of coastal hazards.

*Clause 16 - Development in coastal zone generally – coastal management programs to be considered:* Clause 16 prescribes that development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land. There are no applicable coastal management programs which apply to the subject site.

### **State Environmental Planning Policy No 64 – Advertising and Signage (SEPP 64)**

The applicant amended the plans initially lodged to ensure proliferation of signage was removed to protect the heritage fabric of the building. The amended proposal achieved a better outcome with new sympathetic signage proposed (refer to Drawing A10 and A11 of the amended plans). According to the amended statement of Environment Effects:

*'New non-illuminated signage is proposed to the Western side of the proposed first floor amenities extension, to the corner of Frederick and Ridge Street, and above the side entry door on Ridge Street. The proposal provides a consistent*



*quantity of signage as the existing development and is evenly dispersed to avoid high signage concentration in particular areas.'*

**Image 1:** Signage corner Frederick and Ridge Street



**Source:** Amended architectural plans photo montages - Drawing A15

**Image 2:** Western elevation first floor new signage



**Source:** Amended architectural plans photo montages - Drawing A16

The proposed signage is considered acceptable having regard to SEPP 64 requirements and the nature of the development and does not contravene the provisions of Schedule 1 of the SEPP.

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

An assessment of the proposal against the relevant provisions of NLEP 2012 is provided below.

Clause 1.3 – Land to which Plan applies

The NLEP 2012 applies to land identified on the 'Land Application Map'. The subject development occurs on land shown on the map.

Clause 2.3 Zone objectives and Land Use Table

The site is zoned 'B1 Neighbourhood Centre' under the NLEP 2012. The proposal is characterised as a 'food and drink premises – pub' which is permissible with Council's consent in the zone.

The proposed alterations and additions maintain the existing use of the site and are consistent with the objective of the zone '*to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood*'.

Clause 2.7 - Demolition Requires Development Consent

The proposal includes demolition. 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 11m. The height of the development is approximately 10.998m and complies with this development standard.

Clause 4.4 - Floor Space Ratio (FSR)

Under the NLEP 2012 the site has an FSR development standard of 1.5:1. The site area is 1,797m<sup>2</sup>. As detailed on the submitted amended plans and the SEE the gross floor area of the development for the lower floor is 588m<sup>2</sup>, the ground floor is 1,033m<sup>2</sup> and the first floor is 547m<sup>2</sup>, with a total of 2,168m<sup>2</sup>.

The proposed submitted FSR is approximately 1.2:1 and therefore complies with this requirement.

Clause 5.10 - Heritage Conservation

The site is occupied by a local heritage item, 'Beach Hotel' (I299), on Schedule 5 of the NLEP 2012. The State Heritage Inventory provides the following Statement of Significance for the heritage item:

*'Illustrates form and style of hotel development in the early 20th century. Reflects social life of local community. Interiors of interest.'*

The Statement of Heritage Impact (SoHI) prepared by EJE Heritage provides an updated Statement of Significance:

*'The institution of the Beach Hotel is locally significant for its long-standing role in serving the community of Merewether. Since the 1880s it has provided a community space serving customers and for the majority of that time providing gathering space for community events, nourishment and entertainment. It has developed alongside the fortunes of Merewether from its early history of mining and industry through to its current white collar / beach-going population. It has reflected the community surrounding it through its existence.'*

*The current building, dating from 1940-1 demonstrates a significant time in the inter-war period when Tooth & Co. Ltd. undertook a substantial number of complete rebuilds on hotels around the state to represent new modern architectural styling. The design by Cyril Christian Ruwald, a noted architect from Sydney, is a good representation of the Functionalist and Art Deco styles with landmark qualities. A good proportion of the original design is still able to be interpreted in the extant fabric despite numerous alterations, additions and redecorations throughout the ensuing years.'*

Heritage items in the vicinity are identified below:

*'Holy Family Parish Hall, 19 Janet Street, Merewether, Local significance – I306.'*

An assessment of the proposal against the relevant provisions of the clause is provided below:

1) *Objectives*

The proposal is consistent with the objectives and the amended plans address the requirement to preserve the heritage fabric of the of the 'Beach Hotel'.

2) *Requirement for consent*

Clause 5.10(2) is satisfied as the application is seeking consent for the development.

3) *When consent not required*

Consent is required and is being sought by the application.

4) *Effect of proposed development on heritage significance*

The proposed development will not have any adverse impact on the heritage significance of the heritage item or its associated fabric, setting and views.

5) *Heritage assessment*

A SoHI, prepared by EJE Heritage, has been submitted with the application.

6) *Heritage conservation management plans*

A Conservation Management Plan (CMP) has not been prepared for the site, however, it is not required in this instance.

7) *Archaeological sites*

The site is not an identified archaeological site.

8) *Aboriginal places of heritage significance*

An Aboriginal Heritage Information Management System search found no Aboriginal sites or Aboriginal Places within a 50m curtilage of the site.

9) *Demolition of nominated State heritage items*

The subject site is not a nominated State heritage item.

10) *Conservation incentives*

The application does not seek to utilise this clause.

Having regard to Clause 5.10 (4) it is considered the proposed development would not have an adverse impact upon the heritage significance of the item as its aesthetic and historical contribution to the significance of the area will be retained.

Clause 6.1 – Acid Sulfate Soils

The site is affected by Class 5 acid sulphate soils and the proposed development is considered satisfactory in this regard.

Clause 6.5 – Public safety – licenced premises

As the proposed development is to be undertaken on land containing a licenced premise, the provisions of this clause apply.

NSW Police and CN's Licenced Premises Reference Group have considered the application and raise no objection, noting there is no change in operating hours and the capacity is proposed to reduce (currently a maximum 1,500 patrons proposed to 1,230 patrons maximum).

Further, the above agencies noted the venue has been operating for a number of years in a reasonable manner consistent with this application.

Recommended conditions of consent provided by NSW Police are recommended to be imposed on any consent issued.

**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

##### *3.10.05 Street activation*

The proposal includes the replacement of the majority of the existing balustrades to the Frederick and Ridge Street facades with bi-fold windows / door. The use of the Ridge Street Level 1 terrace area is considered to improve surveillance between the building and public domain, which is consistent with the objectives of the NDCP 2012, namely:

- 1. Provide activation of street frontages to ensure a safe and accessible environment.*
- 2. Promote uses that attract pedestrian traffic along ground floor street frontages in business zones.*

##### *3.10.06 Building design and appearance*

The design of the proposal and appearance of the building is acceptable having regard to this section of the NDCP 2012.

##### *3.10.08 Fencing and walls*

The proposed development includes the provision of replacement fencing and walls to the street frontages and is designed to significantly enhance passive surveillance from the building to the public domain and is therefore considered to be acceptable with regard to this section of the NDCP 2012.

#### Mine Subsidence - Section 4.03

The site is located within a proclaimed Mine Subsidence District, and conditional approval for the proposed development has been granted by SA NSW, via the stamping of plans prior to the lodgement of the development application.

#### Safety and Security - Section 4.04

The proposed development has suitably integrated the principles of Crime Prevention Through Environmental Design (CPTED) in the development, with significant improvement in surveillance on the site. The submitted CPTED report provides a satisfactory response to the key elements required in the design.

NSW Police and CN's Licenced Premises Reference Group have noted that the pub has been well run and managed for a number of years in accordance with the existing Plan of Management (PoM) which is to be amended as part of this proposal.

As no change in the licenced hours is proposed and the total patron capacity is to be reduced, the potential for opportunistic crime is not anticipated to increase.

#### *4.04.02 General principles*

Having regard to the general principles contained within this section of the NDCP 2012 (exterior design and layout, surveillance, lighting and signage / wayfinding), the proposed refurbishment of the building facilitates ongoing active use of the ground level through the refurbishment with provision for both active and passive surveillance. CCTV is to be improved at the premises and passive surveillance is increased to the public domain including bordering footpaths and streets. The proposal is satisfactory in response to general principles.

In addition, the Crime Risk Assessment report, prepared by Rathmore Group, 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.

An assessment against these acceptable solutions is provided below:

#### Exterior design and layout

There are no changes proposed to the existing entry / exit points from Frederick and Ridge Street. The development is for internal works only. The external works are mainly facade improvements that do not include entrapment locations or blind corners. The facade treatments are limited due to the heritage significance of the building.

#### Surveillance and sightlines

The proposed terrace fronting Ridge and Frederick Streets is considered to enhance natural surveillance and will provide an active street frontage particularly for Ridge Street. This is supported in the Crime Risk Assessment Report as such:

*'There is increased passive surveillance to the street from the upper terrace that is now going to be open to the public, a significant increase in external CCTV coverage and deployment of security and staff to monitor external activity.'*

Additional CCTV for the Ridge St frontage is proposed as part of the development.

#### Lighting

- i) Appropriate day and night lighting to the building and adjoining public domain exists
- ii) External lighting across the ground level of the venue is proposed
- iii) The lighting is located so there is no spillage to neighbouring residential properties

### Signage / Wayfinding

The development includes the incorporation of signage around the curtilage of the existing building for wayfinding. The signage is not intrusive and non-illuminated and respects the heritage value of the item. Signs are also displayed around the building advising that the building is under 24-hour camera surveillance.

Overall, the building design and functionality of the street frontage curtilage allows surveillance of all surrounding footpath areas through increased use of the upper floors, presence of CCTV and physical security along both Frederick and Ridge Streets.

The proposal achieves clear sight lines between private and public spaces, effective lighting of public places and suitable activation of Frederick and Ridge Streets.

#### *4.04.03 Principles for specific uses*

The existing use is maintained as a pub with ancillary restaurants. The premises can be categorised as a food and drink premises under the NLEP 2012. Activation of street frontages is an important element for a pub and this proposal will increase the activation of both street frontages.

Pedestrian and vehicle access for the site are maintained and are acceptable. Natural surveillance and mechanical CCTV is improved for the site, with details included in the PoM. The PoM addresses safety, patron dispersal and behaviour, alcohol management, hours of operation, patron numbers and transport arrangements. The proposal is satisfactory in this regard.

In summary, the application has been supported by an updated PoM for the hotel. The PoM identifies and addresses safety and security impacts of the development. The plan will be periodically updated to account for changing conditions of the venue in collaboration with operators and residents of surrounding land uses. A condition is included to ensure approval by NSW Police and CN.

The venue is to be used and operated in accordance with the PoM for the lifetime of the development. A condition has been included within the draft schedule of conditions referencing the PoM.

### 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 SEE which notes that the use allows for social opportunities including improved levels of service for guests and choices for dining. In addition, the owner provided a response to public interest and social impact, noting that additional opening hours promotes employment. The additional SIC information details that the pub is vital to Newcastle's growth by attracting people to the area like other large coastal cities.

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.

The PoM also demonstrates that staff are trained in identifying and preventing intoxication, verifying proof of age. The PoM also details the deployment of Designated RSA Advisor in accordance with the Liquor Regulation NSW 2018.

The PoM demonstrates external management will be the responsibility of a nominated supervisor to ensure security personnel comply with the duties outlined in the PoM. 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 any amended liquor licence being approved.

The potential impacts of the development are considered acceptable and can be adequately addressed through conditions of consent. Conditions regarding hours of operation, CCTV management, maximum patron capacity and a PoM are included in the recommend development consent conditions (**Attachment B**).

#### Aboriginal Heritage - Section 5.04

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

#### Heritage Items - Section 5.05

The proposal is supported by SoHI prepared by EJE Heritage.

<b>5.05.01 General Principles</b>	
<b>Objectives</b>	<b>Comment</b>
<i>Encourage the retention of existing heritage items.</i>	Complies.
<i>Demonstrate an understanding of the heritage significance of items.</i>	The SoHI has included a robust analysis of documentary and physical evidence which demonstrates an understanding of the heritage significance of the place.
<i>Encourage heritage items to be used for purposes that are</i>	Complies.



<i>appropriate to their heritage significance.</i>	
<i>Maintain a suitable setting for the heritage item</i>	Complies. The setting of the heritage item is generally retained as existing. Previous additions have obscured the ground level facade. The proposed additions to the hotel are located at the rear which is a service area and does not contribute to prominent views to the heritage item or impact on significant fabric. The upper level of the original building remains visible and legible, particularly from the intersection of Frederick and Ridge Streets.
<i>Encourage the removal of unsympathetic alterations and additions and reinstatement of original features and details.</i>	The proposed development removes the unsympathetic signage, flagpoles, shade structures at the ground level terrace that are currently cluttering views to the heritage item.
<i>Support ongoing maintenance, care and use of heritage items.</i>	The heritage item through the proposed renovations and continued occupation of the building supports this objective.
<i>Encourage the whole of the building to be re-used</i>	Complies.
<b>Controls</b>	<b>Comment</b>
<i>Any development application for works to a heritage item is accompanied by a Heritage Impact Statement, CMP, or Conservation Management Strategy, as required by the NLEP 2012.</i>	Complies.
<i>Development of a heritage item: (a) is consistent with the Heritage Impact.</i>	The proposed development will maintain the legibility of the c1940 Cyril Ruwald design. The established significant use of the building as a hotel is continued through the development. The landmark qualities of the hotel on a prominent corner are preserved.
<i>(b) is consistent with the Statement of Heritage significance for the item.</i>	Complies. The proposed development will maintain the legibility of the c1940 Cyril Ruwald design. The established significant use of the building as a hotel is continued through the development. The landmark qualities of the hotel on a prominent corner are preserved.
<i>(c) protects the setting of the heritage item.</i>	Complies. Additions are generally located at the rear. The proposed first floor terrace is an

	<p>introduced element, however, provides a more consolidated response for this underutilised area than the existing situation, which comprises of numerous shade structures, roof structures, flagpoles and columns. The proposed terrace will remove the existing clutter and provide a functional area for hotel patrons while still preserving existing views to the facade of the heritage building through provision of glazed balustrades / acoustic screening.</p>
<p><i>(d) retains the significant internal and external spaces and to recycle, re-purpose and reuse fabric and building elements.</i></p>	<p>Complies. As demonstrated in the SoHI, there is little original fabric left inside the pub. Very few elements to be demolished are original with most significant internal fabric removed in previous rounds of renovations.</p> <p>Elements to be demolished are not considered to be demonstrative of the significance of the hotel. Fabric identified as being related to the c1940 section of the building has been retained, including the frieze in the public bar, niches in wall, coffers and cornices in the former lounge, and the bar counter in the saloon bar.</p> <p>The external architectural form of the building is to be retained and remains clearly discernible within the Frederick and Ridge Street streetscapes. The landmark attributes of the projecting curved form are retained and enhanced through the stripping back of previous cluttered elements at the ground level.</p>
<p><i>(e) avoids “facadism” by using all of the components of the building including, but not limited to, the structure, floor, roof, floor and wall framing, fittings and finishes, fabric and materials.</i></p>	<p>Complies.</p>
<p><i>(f) removes alterations and additions that are unsympathetic to the heritage significance of the heritage item.</i></p>	<p>Complies. The proposed development removes the flagpoles, signage shade structures etc at the ground level terrace that are currently cluttering views to the heritage item. New works on the eastern side of the building will reduce the visual clutter and provide better views through to the original form of the heritage item.</p>
<p><i>(g) reinstates missing building elements and details.</i></p>	<p>There is little original fabric remaining internally of the pub. It is not considered appropriate to</p>

	recreate the original hotel interiors. At present, one of the original Wunderlich signs is obscured, this is proposed to be relocated back to the front of the building to be visible from Frederick Street which is supported.
<i>(h) uses materials, finishes, and colours that are appropriate to the architecture, style and age of the heritage item.</i>	Complies. The proposed materials and finishes are generally appropriate. The use of tiled finishes is consistent with the original design intent of the c1940 Ruwald design.  The use of concrete and masonry is appropriate for the architecture and style of the building. The proposed neutral light colours respond to the original colour scheme of the building. New surfaces are rendered and generally appear neutral which allows the existing face brickwork to demonstrate the original extent and form of the building.
<i>(i) reinforces the dimensions, pattern and style of the original window and door openings of the heritage item.</i>	Original window and door openings are retained. Timber framed windows and doors are degrading due to the age of the building and the harsh coastal environment. They are to be replaced with units of the same size and appearance which is acceptable.
<i>(j) maintains and repairs building elements in order to retain the heritage item in a serviceable condition commensurate with its heritage significance.</i>	Complies. The development maintains the building in a serviceable condition. The use of the building as a hotel is maintained and enhanced. The proposed works will ensure the building is maintained for use by future generations.

#### Archaeological Management - Section 5.06

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

#### Traffic, Parking and Access - Section 7.03

##### *7.03.01 Traffic studies and plans*

##### *A. Traffic Impact Study*

A Traffic Impact Assessment (prepared by Seca Solution and dated 1 October 2020) has been submitted with the development application. In addition, the applicant forwarded further survey data and technical design notes supporting the proposal that responded to data collection outside of COVID19 public health restriction period (lockdown) in 2020.

### 7.03.02 Parking Provision

#### *On-site parking demand and provision*

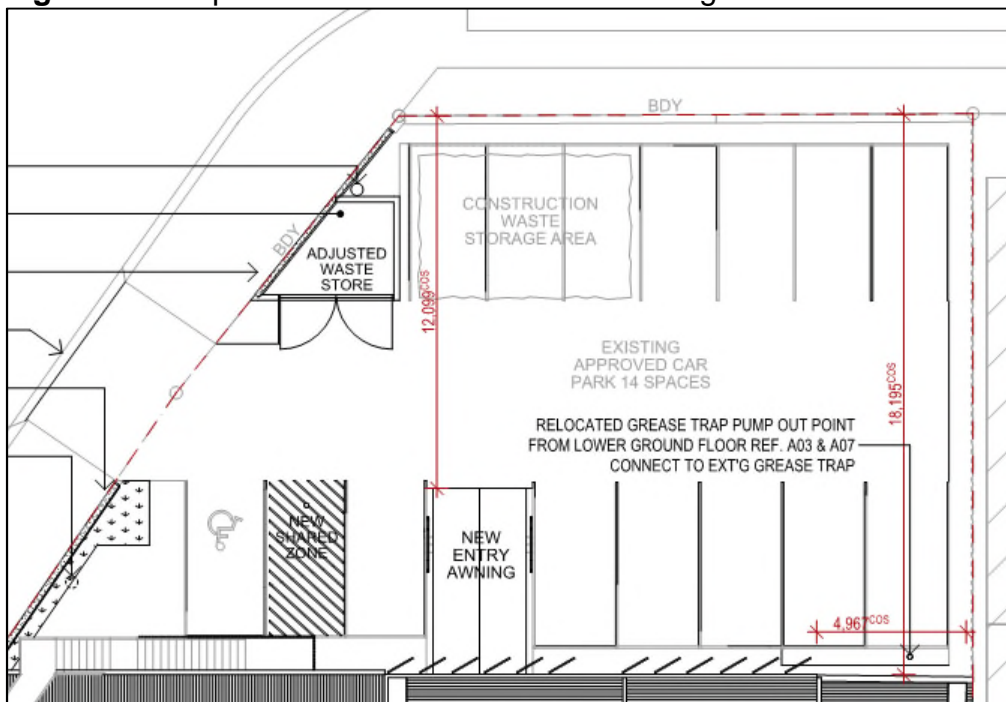
Car parking is required to be provided in accordance with the rates set out in the NDCP 2012. For a pub the following rates are applicable:

- i) One space per 15m<sup>2</sup> of licenced floor area (bar, lounge) for visitor accommodation in association with a pub - one space per two rooms

There are 14 car parking spaces within the existing car park. The only change proposed to the parking layout is the parking space for a person with a disability to have a shared space in accordance with Australian Standard AS2890.6 (refer to Figure 1 below).

The proposed additions will result in an additional 196m<sup>2</sup> of gross floor area which based on the above rates will require an additional 20 car parking spaces. The additional parking cannot be provided on site and the development has a parking deficiency. Notwithstanding this, the patron numbers are proposed to reduce from 1500 to 1230 patrons.

**Figure 1:** Site plan extract – Architectural Drawing A01



In consideration of the proposed parking deficiency and the reduction in patron numbers the applicant has proposed the use of a courtesy bus within the submitted PoM:

*'If trade warrants, the Hotel will run a smaller (approx. 12-seater) Courtesy Bus to allow patrons to arrive and leave the Hotel quietly and safely. The bus will be responsible for safely escorting patrons to and from the venue. Whilst it is difficult to determine weekly demand of a Courtesy Bus service, an example of Courtesy Bus operating hours may be expected to be:*

*Thursday-Sunday 5pm-1am.*

*For busier days and events, if trade warrants, a large 70-person bus will be used to quietly and safely disperse patrons from the venue. Whilst it is difficult to determine weekly demand of larger bus service, an example weekly operating hour may be expected to be: Friday and Saturday from 12am and Sunday from 10pm. This may be either a company owned bus or provided by an externally contracted company. If the bus service is owned by the Hotel, it will be stored outside of Newcastle. If an external bus company is contracted the bus will be stored by this company.'*

In addition, a number of submissions were received raising concerns in relation to the potential increase in on street parking and the accuracy of the parking survey, since it was undertaken during early COVID restrictions and over a limited time period. In response, the applicant has undertaken a more comprehensive parking survey over three weekends in April – Friday 12<sup>th</sup> and Sunday 14<sup>th</sup>, Friday 19<sup>th</sup> to Sunday 21<sup>st</sup> and Friday 26<sup>th</sup> to Sunday 28<sup>th</sup>. Saturday 13<sup>th</sup> had severe storm warnings and therefore no survey was undertaken.

The parking survey demonstrates that:

1. Peak patronage at the hotel does not coincide with peak levels of parking in the vicinity.
2. Parking in the area is not confined to the hotel patrons but attributable also to the beach / baths / foreshore, Merewether Surf House, residents and their visitors.
3. On-street parking spaces were available during peak hotel periods to cater for the demand.
4. A larger portion of available parking existed in the areas of Frederick Street south of the hotel to Scenic Drive, Merewether Baths car park, Henderson Parade and Council's new 104 space public car park off Watkins Parade.
5. Limited opportunity existed for on-street parking in the surveyed residential streets.

A number of inspections of the parking survey area were undertaken from Tuesday 27 April to Friday 30 April at 8.00am and at 5.15pm which indicated a high level of on-street parking in Ranclaud Street. This would suggest that the majority of these vehicles are owned by residents and visitors. Based on these findings, it could reasonably be concluded, in the absence of further data, that this level of on-street parking activity would continue over the weekend and therefore not be attributable to the pub.

The recent construction of a new 104 space public car park off Watkins Street and its proximity to the pub should result in a net reduction in the level of on-street parking in neighbouring residential streets.

In conclusion acknowledging the proposed patronage reduction, introduction of a courtesy bus and the findings of the parking survey the parking deficiency of 20 spaces can be supported.

#### Carpark access

Consideration of the vehicular access of the carpark has identified that the sight line requirements for a vehicle exiting the site under *AS 2890.1 – Parking Facilities* are non-compliant with the proposed installation of a block wall. An appropriate condition has been recommended requiring design changes to ensure compliance with this standard.

#### Public Domain

The application proposes the construction of an accessible ramp within the Frederick Street public road reserve which has been assessed and is acceptable. An appropriate condition has been recommended regarding a one-off payment required for encroachment within the public space. Additionally, the proposal will require a separate approval under Section 138 of the *Roads Act 1993* relevant to the accessible ramp. An appropriate condition of consent has been recommended in this regard.

#### Section 7.05 - Energy efficiency

The proposal is acceptable having regard to this section subject to the recommended conditions of consent.

#### Stormwater- Section 7.06 and Water Efficiency - Section 7.07

The proposed stormwater management is in accordance with the relevant aims and objectives of the NDCP 2012. All new / replaced roof gutters (refer to Architectural Drawing A09) will connect to the existing stormwater system. An appropriate condition is to be included in consent. Accordingly, the proposal is acceptable in relation to water management.

#### Waste Management - Section 7.08

The applicant has submitted a detailed waste management plan, which addresses waste minimisation and litter management strategies. Demolition and waste management will be subject to conditions recommended to be included in any development consent to be issued.

Existing arrangements are considered satisfactory. Based on the submitted information, the proposal is acceptable.

#### Advertising and Signage - Section 7.09

The submitted documentation identifies the removal of three existing signs, and two new signs as described in the discussion of State Environmental Planning Policy 64 – Advertising and Signage assessment.

All proposed signs are for the purposes of business identification and way finding with the addition of the flush wall sign at the upper storey of the building on western elevation and at the corner of Ridge and Frederick Streets reflecting the historical significance of the hotel, which is commendable. New signage is not illuminated.

The proposed development is considered acceptable having regard to this section of the NDCP 2012.

#### Local Infrastructure Contribution

The EP&A Act 1979 enables CN to levy contributions for public amenities and services. The proposed development does not attract a development contribution as it includes the refurbishment of an existing development where there is no enlargement, expansion, increase in floor area or intensification of the current land use, as detailed in CN's Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 (Updated December 2020).

#### **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 1979 and the *Environmental Planning and Assessment Regulation 2000*.

In addition, a requirement to comply with Australian Standard AS2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

No Coastal Management Plan applies to the site or the proposed development.

#### **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 NLEP 2012 and NDCP 2012 considerations. In addition, the following impacts are considered relevant.

#### Acoustic Impacts

Having regard to potential acoustic impacts arising from the proposed development, a detailed assessment of the proposal has been undertaken including consideration of the Revised Noise Impact Assessment prepared by Reverb Acoustics (April 2021).

The acoustic report by Reverb is noted to have assessed the noise impacts of the proposed development on the nearby residential receivers and concludes that the development can be compliant with noise guidelines subject to the implementation of the noise control recommendations contained in Section 8 of the report.

In this respect, the subject acoustic report appears to generally comply with appropriate guidelines and standards in respect to what a determining authority would reasonably expect to support an application of this nature. Some minor typographical errors were noted however these were not considered to significantly affect the conclusions of the report.

The acoustic report was undertaken on the understanding the following hours of operation exist at the premises and are to carry on going forward:

- i) *Ground Floor: 5am-3am Monday to Saturday, 10am-10pm Sunday*
- ii) *Lower Ground and First Floor: 5am – 12am Monday to Saturday, 10am-10pm Sunday*
- iii) *South Terrace (Ridge Street): Proposed to be 10am – 10pm Monday-Sunday*

*The only exception to the above is the hours of operation of the first-floor terrace facing Ridge Street. The intended operating hours of this terrace is 10AM-10PM Monday-Sunday.*

A considerable number of recommendations to manage potential noise impacts emanating from the premises are provided in Section 8 of the report. This includes physical attenuation be applied to building construction as well as management recommendations such as ceasing to operate certain areas and the closing of doors and windows. Also, additional options for controlling noise such as the use of noise limiters and additional acoustic linings for certain areas are provided should complaints be received.

Reference to the recommendations of the acoustic assessment have been incorporated into the PoM. This helps to ensure the venue operators are made aware of the acoustic recommendations of the acoustic report on an ongoing basis. It also provides additional regulatory options as compliance with a PoM can be included within the conditions of consent and is often required as part of a liquor licence.

It is noted that investigation and enforcement experience from CN's Regulatory section indicates that licenced premises which implement the recommendations of a qualified and experienced acoustic consultant as well as comply with applicable liquor licence conditions and Council conditions of consent, typically do not generate significant complaints concerning excessive noise.

A review of CN's customer request management system, as well as no objections raised in the Police submission, indicates that the premises has likely not generated significant complaints in respect to noise emanating from the premises in recent years.

A potential concern with the recommendations of the acoustic report is that they include that live bands should not be permitted within the first level restaurant 'however discos, duos, soloists etc' are permitted. NLEP 2012 Clause 5.2 notes Council cannot impose specific noise conditions regarding the location or nature of



live music. Therefore, it will be important that the venue self regulates these types of recommendations.

It is identified that should approval be granted, and if unreasonable noise impacts from amplified music occur, the report recommends a number of ways to manage noise including use of an electronic sound limiter. A reputable licenced premise should be reasonably expected to be capable of managing the volume of internal sound to protect the local amenity.

Unreasonable noise impacts from patrons leaving the premises may also occur unless managed appropriately by the operator. In this regard, the conditions recommended by the NSW Police relating to patron numbers, security and the PoM will be recommended for inclusion in any consent granted.

#### Midnight to 3am trading

Currently the ground floor venue ceases operation at midnight. The acoustic report provides data which indicates that the ground floor should be able to operate as proposed until 3am without breaching noise guidelines. That is, noise should be inaudible after midnight at neighbouring premises. However as to be expected, from midnight to 3am the noise criteria is much harder to comply with as background noise is low, and the noise test of inaudibility is harder to meet than noise criteria prior to midnight. There is essentially much less margin for error.

The predication of real-world noise impacts in respect to developments of this nature is complex and always involves a degree of assumption and uncertainty. As discussed above there would be a number of practical options for the venue to reduce noise should approval be granted and complaints of excessive noise occur, particularly from amplified music.

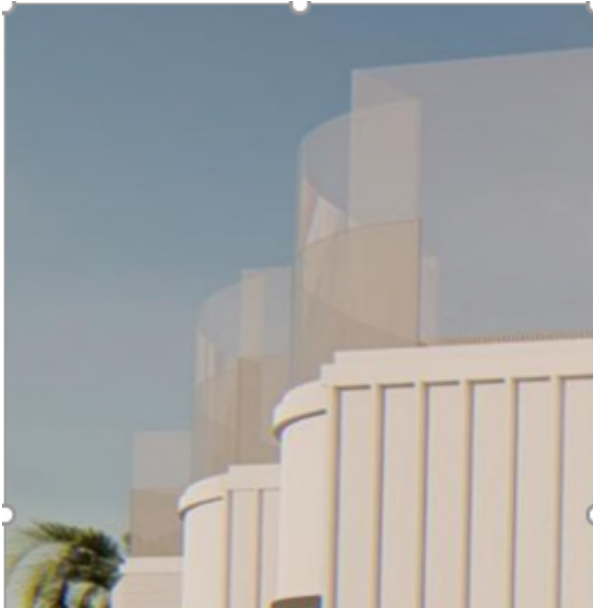
#### Conclusion

In summary, the submitted acoustic report has identified the reporting was during the required hours of operation. The data for noise emanating from the premises is not considered to generate acoustic impacts and is acceptable. The physical and management attenuation measures recommended are acceptable. The incorporation of recommendations into the PoM indicates the site will be managed appropriately. In addition, limiting the use of the outdoor terrace to 10:00pm daily is considered satisfactory. Recommend conditions have been included ensuring the report recommendations are implemented in the ongoing operation of the premises or any subsequent liquor licensing requirements.

#### Privacy

The impacts of the proposed development upon privacy of neighbouring properties, in particular Ridge Street, has been considered during the assessment process. In this respect, the distance between the first-floor terrace and the Ridge Street residential buildings balconies is approximately 2m. Given the separation distance between the proposed works and the neighbouring properties, the proposal is unlikely to result in any unreasonable privacy impacts.

Further, 50% of the acoustic screen balustrading along the Ridge Street elevation includes acoustic screening and as such views will be obscured, to ensure privacy impacts are mitigated. The obscuring of the glass will particularly mitigate the likely impacts of people seated in the area who will be able to view across Ridge Street for a longer period of time. On balance, obscuring of half the acoustic screening for the Ridge Street elevation will preserve the heritage item's values for view from the public domain and mitigate privacy impacts for nearby residents. A recommended condition has been provided to reinforce this requirement. Figure Two provides a visual of the obscured portion of the Ridge Street elevation acoustic screening.



**Figure Two:** Photo montage of obscured element of Ridge Street elevation acoustic screening – Architectural Plans Drawing – A15.

### Trading Hours

As discussed previously in this report, the trading hours of the pub, except for first floor restaurant, are not restricted by any previous development consent. The applicant relies on the operating hours of the Liquor Licence which permits trading to 3:00am Monday to Saturday.

This application provides for the opportunity to formalise the pubs' trading hours under a development consent. During the assessment the applicant was requested to provide clarification on reasoning to operate the ground floor portion of the pub from 12:00am to 3:00am Monday to Saturday, the applicant provided the following response:

*'A critical component of my business strategy is to provide a full range of services to the community and to always be open.*

*The Exchange with a 3am licence closed at 10pm on Monday to Thursday as it was a struggling business wanting to save on costs by closing early. SBCC with a 2am licence used to close at 9pm on Sunday to Thursday and midnight on Friday and Saturday nights.*

*Once these venues were renovated and there was a commitment to fully utilising their trading hours both these venues grew significantly and despite increased patronage, assault data confirms that both these venues are now safer than under previous ownership. In fact, both these venues were categorized as Level 2 Violent venues (as per the attached) when I purchased them. Both venues are now well-run, safe venues with reduced levels of antisocial and violent behaviour.*

*In utilising the existing hours, I plan to open at 6am to capture the morning coffee trade available around the Beach. Breakfast will be offered from 7am and lunch from 11am. Unlike other venues, I do not close my kitchen from 7am till 10pm, always having facilities available to our customers. I have found that making a full commitment to a venue's licenced hours helps grow the business as customers aren't guessing if you are open or not.*

*In regard to the post-midnight trade period, the same philosophy applies. If a customer knows you are always open, the more likely they will frequent. Shift workers and essential service workers have little options after work, and these are all opportunities for the Hotel to service the Community. Providing an opportunity to engage in social interaction whilst enjoying facilities including hot and cold beverages, food or gaming facilities is a benefit to the entire community but especially shift workers.*

*Occasionally, there will be demand for functions to trade past midnight. It might only be until 12.30am but having the ability to accommodate these events gives the Hotel a wonderful opportunity to service its customers.*

*I will NOT be running weekly events such as Student nights that trade beyond midnight, but I also don't want to be prohibited from hosting the occasional special event if demand warrants. Functions, both social and corporate, will be an important part of our business and to have the ability to host them is advantageous to all involved. Besides the occasional special event I'm not expecting much patronage beyond midnight on Monday to Thursday, but I do want to make a commitment to always being open.*

*One absolute benefit is more hours are available to staff, security, and management. An additional 20 hours trade per week (approx. 3 hours per night) will create additional job opportunities for bar staff, gaming attendants, security and management. My success in Shoal Bay is testament to the value my business provides to the local community and economy. SBCC is the largest Hospitality employer in the Port Stephens region, employing hundreds of full and part-time staff annually ranging in ages from 15-75, supporting work experience students, university and TAFE students and offering industry leading training opportunities.*

*Newcastle is synonymous with a strong pub culture and thriving social scene. To enhance the city's reputation as an industry leader, it must continue to progress and grow in line with similar coastal and capital cities.*

*At the public voice meeting, Doug White started his presentation with identifying some of the most iconic seaside venues on the East Coast as he posed the*

*question, does Newcastle having an Iconic venue. He mentioned The Steyne, Manly, Beach Hotel, Byron Bay and the Coogee Bay Hotel, Coogee. All three are highly popular iconic suburban venues with closing times all beyond midnight:*

- a. The Steyne Hotel, Manly. 3am weekdays and 6am on weekends*
- b. Coogee Bay Hotel, Coogee. 4am weekdays and 6am on weekends*
- c. Byron bay Beach Hotel- 1am, 6 days a week*

*The success of the above venues and the value they deliver in their community is testament to the commitment of their local councils in ensuring venues can adequately service its patrons.'*

*Such is the potential of The Beach Hotel, I firmly believe this DA will allow it to become not only the most iconic venue in Newcastle, but one of the most highly renown on the NSW Coast.'*

The response identifies that the pub provides opportunity for improved options for the community as it has functions that run post-midnight, food options post-midnight and further employment hours by ensuring hours are maximised at the hotel.

The PoM details the staggered closing times for the terrace, and each level of the pub. This will assist in facilitating patron management and dispersion onto the surrounding streets as the night progresses.

As detailed elsewhere within this report, the likely acoustic impacts can be mitigated to ensure that there is not an unreasonable impact on the amenity of nearby residential properties. This has been demonstrated in the submitted acoustic report, and subject to the recommended conditions the impacts between 12:00am and 3:00am are acceptable. Furthermore, NSW Police have raised no objections to the trading hours. The proposal is considered acceptable in relation to these matters. The proposed development will not have any undue adverse impact on the natural or built environment on planning terms and is considered in the public interest.

#### Environmental Health – Food

During the assessment, in response to a request from CN, the applicant provided further clarification regarding the grease arrestor arrangements as noted below:

*'The grease arrestor pump out point has been relocated from the lower ground floor to the car park. Cleaning of the grease trap itself will be performed manually as required, accessible from the lower ground floor, through the café seating area, corridor and airlock.'*

The above arrangements are satisfactory with the grease arrestor detail to be provided on plans in documentation for a construction certificate application. Conditions of consent to respond to the proposed food preparation aspects of the proposal have been recommended.

## 5.7 The suitability of the site for the development

The site is within a Mine Subsidence District and the applicant has provided stamp approved plans granted by SA NSW. The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

The constraints of the site have been considered in the proposed development, which include heritage. The development is generally compatible with the existing character, bulk, scale and massing of development in the immediate area. It is considered that the proposal is suitable for the site.

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

The application was publicly notified in accordance with CN's CPP, with 114 submissions being received within the notification period. A Public Voice meeting for the proposal was held on 20 April 2021.

The key issues raised within the submissions and Public Voice have been discussed throughout this report. The following table provides a summary of the issues raised and a response to those issues.

Issue	Comment
Change of Use and zone objectives	<p>The site is located in the B1 Neighbourhood Centre zone under the NLEP 2012 and the existing development 'pub' is permissible with consent in the zone. The heritage impact statement indicates a pub or hotel has existed on the site since 1886.</p> <p>Objections argue that the proposed development will change the pub into a night club, particularly given the later trading to 3:00am Monday to Saturday. There is no indication provided within the submitted documentation that a change of use to a night club is proposed. The alterations and additions to the pub are considered minor in nature.</p> <p>The proposal is consistent with the relevant zone objectives.</p>
Heritage conservation	<p>The Beach Hotel is a listed local heritage item as discussed in detail, within this report. The application is supported with a Heritage Impact Statement (HIS) which has been assessed by CN and satisfies the requirements of NLEP 2012 Clause 5.10 Heritage Conservation provisions and NDCP 2012 Section 5.05 Heritage Items.</p> <p>The proposal was amended at the request of CN to ensure elements of buildings fabric are retained. All recommendations have been achieved within the design.</p>

Acoustic impacts	<p>The application is supported with a Revised Noise Impact Assessment (NIA) which has been reviewed by CN and consideration has been given to the noise impact upon both current and future residential receivers.</p> <p>The NIA specifies that the proposed changes within the first floor, first floor terrace and expanded hours of the ground floor can meet compliance with the required acoustic criteria. Mitigation measures have been proposed and the impacts are acceptable subject to the recommendations contained in the NIA. Relevant conditions of consent are included in the recommended schedule of draft conditions (<b>Attachment B</b>).</p>
Privacy	<p>The distance from the first floor Ridge Street terrace to nearby residential buildings is approximately 25m, this is considered satisfactory. However, to ensure privacy impacts are mitigated and to protect the heritage item the proposed acoustic barrier is required to be 50% obscured along the Ridge Street elevation. A condition of consent has been recommended within the draft conditions (<b>Attachment B</b>).</p>
Anti-social behaviour	<p>The DA has been supported by a PoM, 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 behaviour.</p> <p>Social impact and safety and security have been considered in detail within the assessment. An amended PoM was received addressing relevant comments raised during public notification, Public Voice Committee meeting and by CN.</p> <p>The operational and physical elements of the development that can be reasonably considered and managed through the DA process have been satisfactorily addressed. Relevant conditions of consent are included in the recommended draft condition set (<b>Attachment B</b>).</p>
Parking impacts	<p>The application is supported with a Parking Assessment Report which has been reviewed by CN, and consideration has been given to streets in the locality potentially impacted by the proposal. Additional data was provided to support the proposal that encompassed data collection during summertime and post COVID19 public health restrictions.</p> <p>It is considered a proposed parking deficiency of 20 spaces can be supported having regard to the proposed patronage reduction, introduction of a courtesy bus and</p>

	<p>the findings of the parking survey. Further comments are within 5.3 of this report under NDCP 2012 Section 7.03 Traffic, Parking and Access.</p>
Hours of operation	<p>The trading hours of the development are in accordance with those permitted by the Liquor Licence, which includes trading to 3:00am Monday to Saturday. No changes are proposed under the current application.</p> <p>The PoM details the staggered closing times for terrace, and each level of the pub. This will assist in facilitating patron management and dispersion onto the surrounding streets as the night progresses. The proposal is considered acceptable in relation to these matters.</p>
Number of poker machines	<p>The proposal is not proposing to alter the existing number of electronic gaming machines (poker machines) in the pub.</p> <p>NSW Independent Liquor and Gaming Authority (NSW ILGA) provided a copy of the Liquor Licence LIQH400117094 to CN on 13 May 2021. The liquor licence includes a restriction on the number of gaming machines, which is 17 gaming machines. The gaming machines also have a restriction on operating hours and must be shut down between the hours of 4:00am and 10:00am and public holidays. A pub in general can have a maximum of 30 machines with approval.</p> <p>If the Beach Hotel requested more machines an approval process via NSW ILGA would be required.</p> <p>The applicant has advised (Letter dated 06 May 2021) that the proposal doesn't include additional gaming machines as part of a separate modification to LIQH400117094.</p>
Increase in patron numbers	<p>There is no increase in the number of patrons for the hotel. The proposal is to decrease the number of patrons of the pub from 1,500 patrons to 1,230 patrons (180 person – Level 1, 951 persons – Upper Ground Level and 141 – Lower ground level). The proposal is satisfactory.</p>
Dispersal of patrons	<p>The proposal is supported with a PoM which notes it will be the responsibility of the venue to manage people leaving the premises by way of transport management and management of ejected person / s. This includes checks externally to the hotel by appropriate staff to manage loiters and to move people on in a reasonable manner. The PoM is a document that can be updated if and when required by NSW Police and CN in accordance with the recommended conditions of consent.</p>

## **5.9 The public interest**

The development is in the public interest and will allow for the orderly and economic development of the site through the refurbishment of an existing building to facilitate ongoing use.

## **6.0 CONCLUSION**

The proposal is acceptable against the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in **Attachment B** are included in any consent issued.

## **ATTACHMENTS**

**Item 10 Attachment A:** Submitted Plans – 99 Frederick Street, Merewether

**Item 10 Attachment B:** Draft Schedule of Conditions – 99 Frederick Street, Merewether

**Item 10 Attachment C:** Processing Chronology – 99 Frederick Street, Merewether

**Item 10 - Attachments A-C - distributed under separate cover**