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Our ref: 19581

22 October 2020

Department of Planning, Industry and Environment  
GPO Box 39  
Sydney NSW 2001

## **RE: View Sharing Analysis of Proposed Development at 42 Honeysuckle Drive, Newcastle**

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### **1 INTRODUCTION**

This View Sharing Analysis has been prepared in response to the amendments proposed to the development at 42 Honeysuckle Drive (42HD). The purpose of this View Sharing Analysis is to assess elements of the proposal for SSD10378 (current assessment) and SSD8440 (original approval) and the impact on view sharing for surrounding developments.

This analysis has been carried out against Council's Development Control Plan (DCP) objectives for view sharing and the established planning principles outlined within *Tenacity Consulting v Waringah* [2004] NSWLEC 140. The analysis has been based upon the viewpoints from surrounding developments, specifically 25 Bellevue Street, 738 Hunter Street, 770 Hunter Street, 9 Beresford Street, 28 Honeysuckle Drive, and the public domain. This view impact analysis should be read in conjunction with the amended plans and amended Clause 4.6 variation provided at Appendix A and B of the RtS report.

### **2 RELEVANT SITE DETAILS**

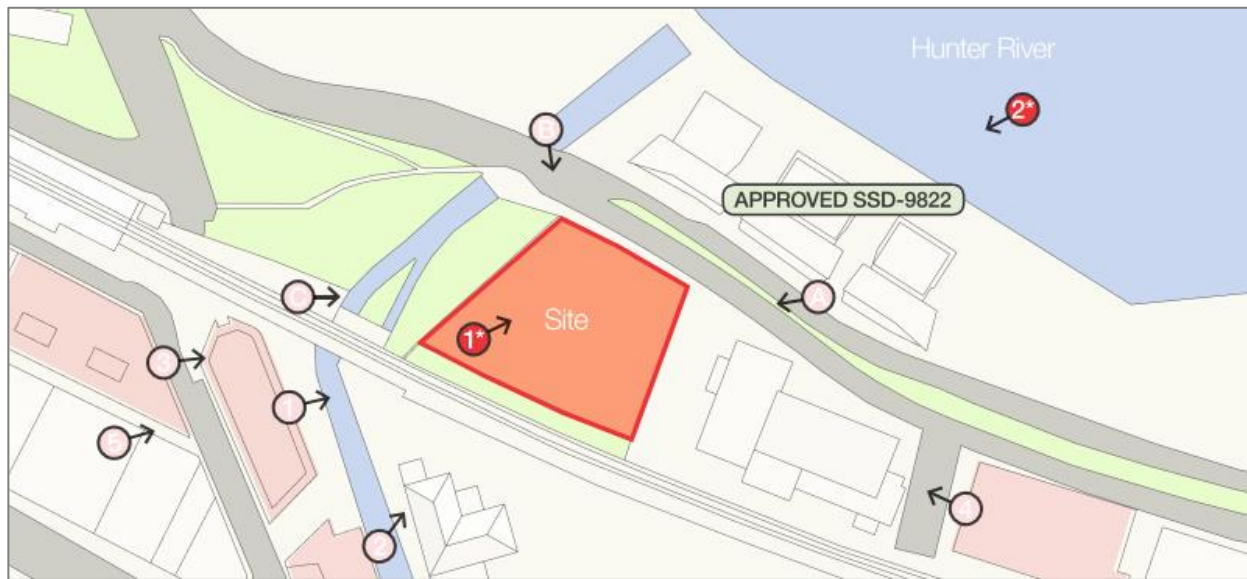
The site is located along Honeysuckle Drive and is currently an undeveloped lot, which is legally identified as Lot 22 DP 1072217. It has a total area of approximately 3,728m<sup>2</sup>.

The site exists within the western end of the Honeysuckle Precinct in the Newcastle City Centre. The site is a regular quadrilateral configuration, its boundaries shared with public space on three sides, being Honeysuckle Drive (north), public reserve (west), Light Rail Corridor (south) and private land that supports a three-storey commercial building to the immediate east.

To the north of the site exists waterfront land and an open carpark known locally as Thorsby Carpark, both having a mixed-use zoning. To the west, land is undeveloped within a commercial core zoning; and to the east, land has been developed for commercial land uses with intermittent ground floor activation along Honeysuckle Drive. Directly east of the site is Hunter Water headquarters which is located within a three (3) storey development. Further east running along Honeysuckle Drive are further commercial premise ranging in height with the commercial building at the corner of Worth Place and Honeysuckle Drive reaching nine (9) storeys.

Bordering the south of the site is the newly developed Light Rail Corridor which connects the Newcastle Centre with the beaches. Further south of the light rail corridor are further commercial and retail premises. The view analysis considers the views as outlined in Figures 1 – 7 below.

Figure 1 - View Impact Analysis - Site Plan



## 2.1 HARBOUR VIEWS

Figures 2 – 7 below demonstrates in section the height impact of the proposal on the neighbouring buildings.

Figure 2 - View Impact Analysis - 25 Bellevue Street

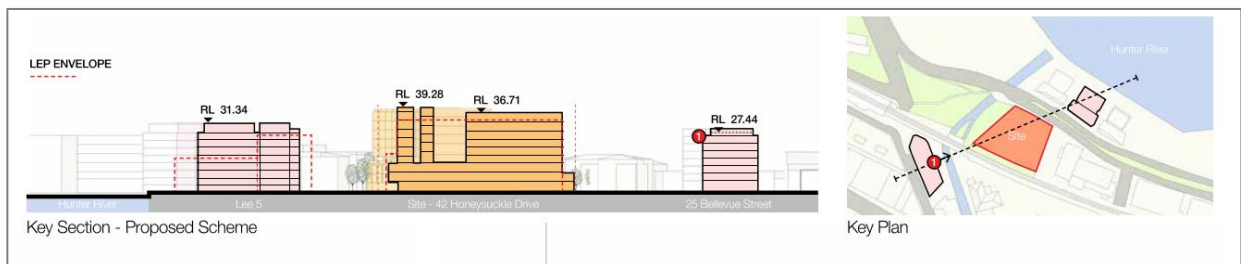


Figure 3 - View Impact Analysis - 738 Hunter Street

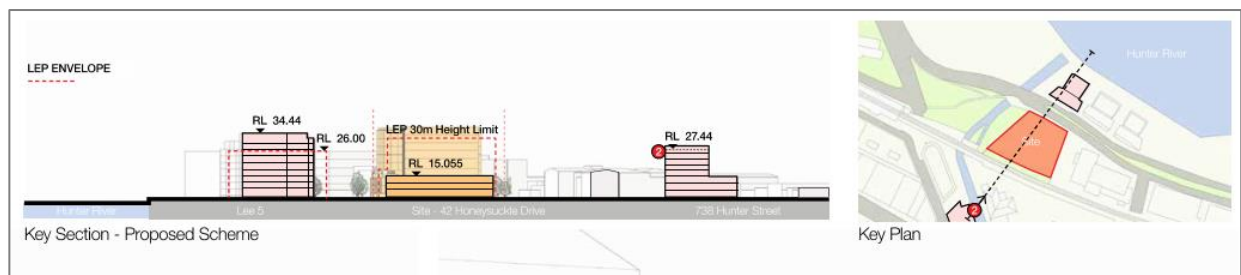
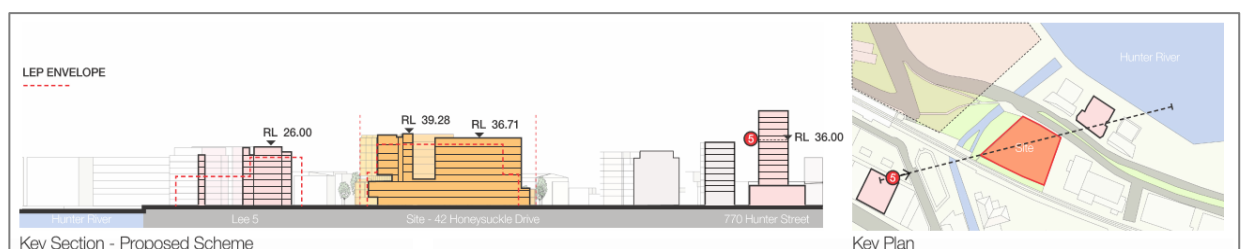
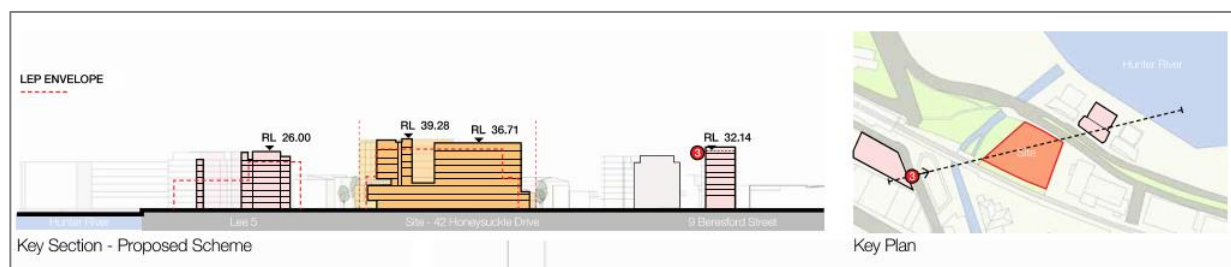


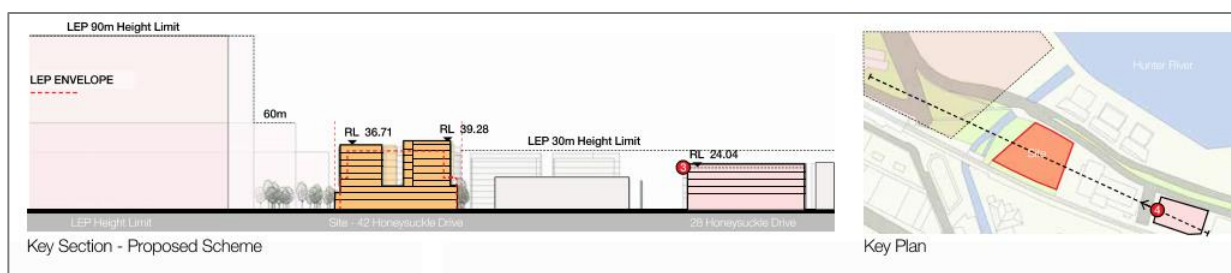
Figure 4 - View Impact Analysis - 770 Hunter Street



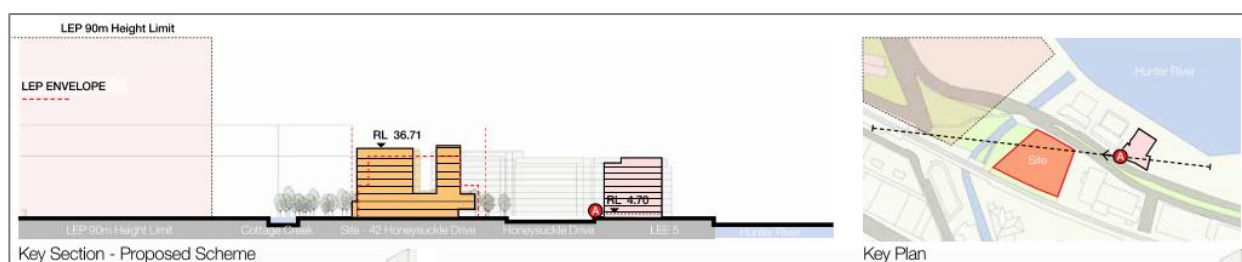
**Figure 5 - View Impact Analysis - 9 Beresford street**



**Figure 6 - View Impact Analysis - 28 Honeysuckle Drive**



**Figure 7 - View Impact Analysis - from Public Domain**



Based on the above, it is evident that the views of the harbour from the neighbouring balconies at 25 Bellevue Street, 738 Hunter Street, 770 Hunter Street and 28 Honeysuckle Drive will be partially impacted. As such, the Tenacity Principles have been used to assess the full impact and the acceptability of the proposed development on surrounding view, specifically to the harbour.

### 3 PLANNING PRINCIPLE

A Planning Principle for view sharing has been established under *Tenacity Consulting v Waringah* [2004] NSWLEC 140. *Tenacity Consulting v Waringah* [2004] NSWLEC 140 sets out a four (4) step assessment process when considering the view sharing impact on neighbours.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed

quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

## 4 ASSESSMENT OF PLANNING PRINCIPLE

This section of the View Sharing Analysis assesses the current views from the adjacent properties, namely the above mentioned residential flat buildings and commercial premises against the future views upon completion of the proposed development on the subject site. The following provides an assessment against each of the four (4) steps established under *Tenacity Consulting v Waringah* [2004] NSWLEC 140:

**Step 1 – The first step is to establish the value of the views, noting that water views and iconic views are more highly valued compared to land views and whole views more highly than partial views.**

The View Analysis included within the Plans enclosed, alongside the extracted Figures 2 – 7 presented above, demonstrate the existing view and proposed view to the Newcastle Harbour and that the majority of residential dwellings currently have views of the water. Specially from 25 Bellevue Street (Figure 2) which currently has uninterrupted water views from the majority of north facing dwellings, including from the lower levels, noting there are some existing large trees along the basin that would hinder water views from the southern end and low level rail infrastructure along the frontage.

North facing residential apartments at 738 Hunter Street (Figure 3) would have harbour views, with the lower levels view completely obstructed by vegetation and an existing 3 storey building adjacent to the east.

North and east facing residential apartments at 770 Hunter Street (Figure 4) already have partially obstructed views by the Lee 5 development. North facing residential apartments have water views from level 8 and above, apartments below have obscured views by 9 Beresford Street and 25 Bellevue Street.

North and east facing residential apartments at 9 Beresford Street have water views from the lower level, noting the units impacted the most by the proposal, the north east facing (Figure 5) already have obstructed views by the existing 7 storey building adjacent.

8 Honeysuckle Drive, a commercial building without any residential component and the public domain will not have water views affected (Figures 6 & 7).

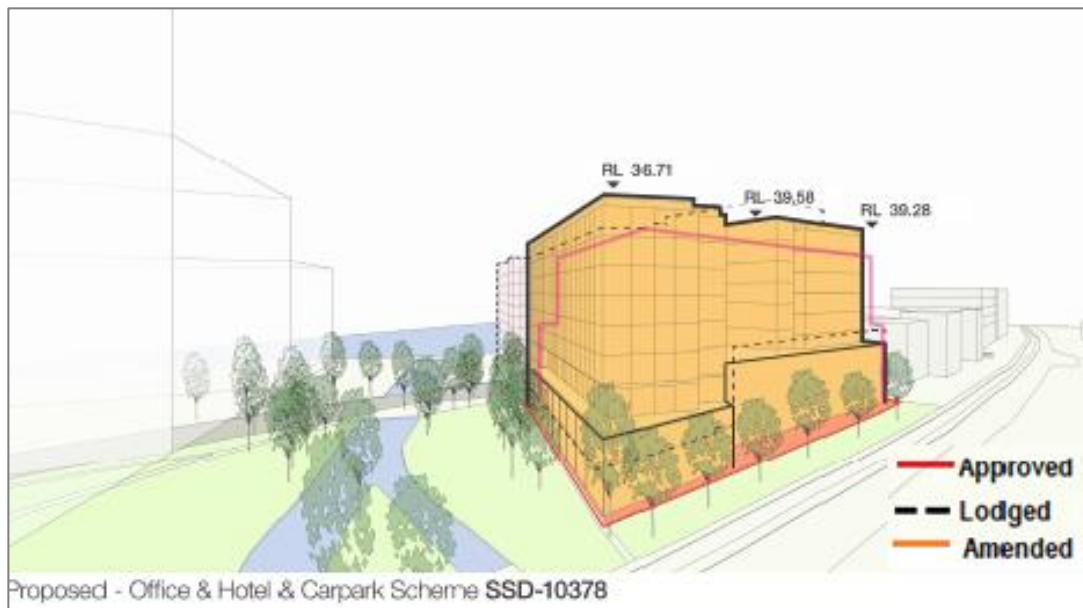
**Step 2 – This step is to consider from what part of the adjacent properties the views are obtained and whether the views are enjoyed via sitting or standing.**

There are a number of residential dwellings within the locations outlined above, while the exact locations, units numbers and precise rooms affected is not known, it is a fair assumption that the majority have their living spaces, such as kitchen and lounge rooms facing the water views, including balconies. Senior Commissioner Roseth SC considers views from kitchens to be highly valued because people spend so much time in them, behind kitchens, living areas are considered more significant than bedrooms and service areas.

**Step 3 – The third step is to assess the extent of the impact for the whole property and to determine the types of rooms affected (e.g. kitchen area, living room, bedroom).**

As outlined in Step 2 above it is a fair assumption that views from predominate living areas will be affected. While there are several residential units that will have their water views affected by the proposal it is important to note that there has always been the capacity and intent for intensive development along the vacant lots fronting the foreshore and in between the light rail and Honeysuckle Drive, where the subject site is located. The visual assessment provided in the amended plans at Appendix A of the Rts report provides a comparison of the LEP compliant and approved envelope, the enveloped as the per the lodged plans, and the envelope as proposed under this amendment. An extract of this is provided in Figures 8 – 9 below.

**Figure 8 - View Comparison - 25 Bellevue Street (Bates Smart pg. 34)**



**Figure 9 - View Comparison - 738 Hunter Street (Bates Smart pg. 35)**



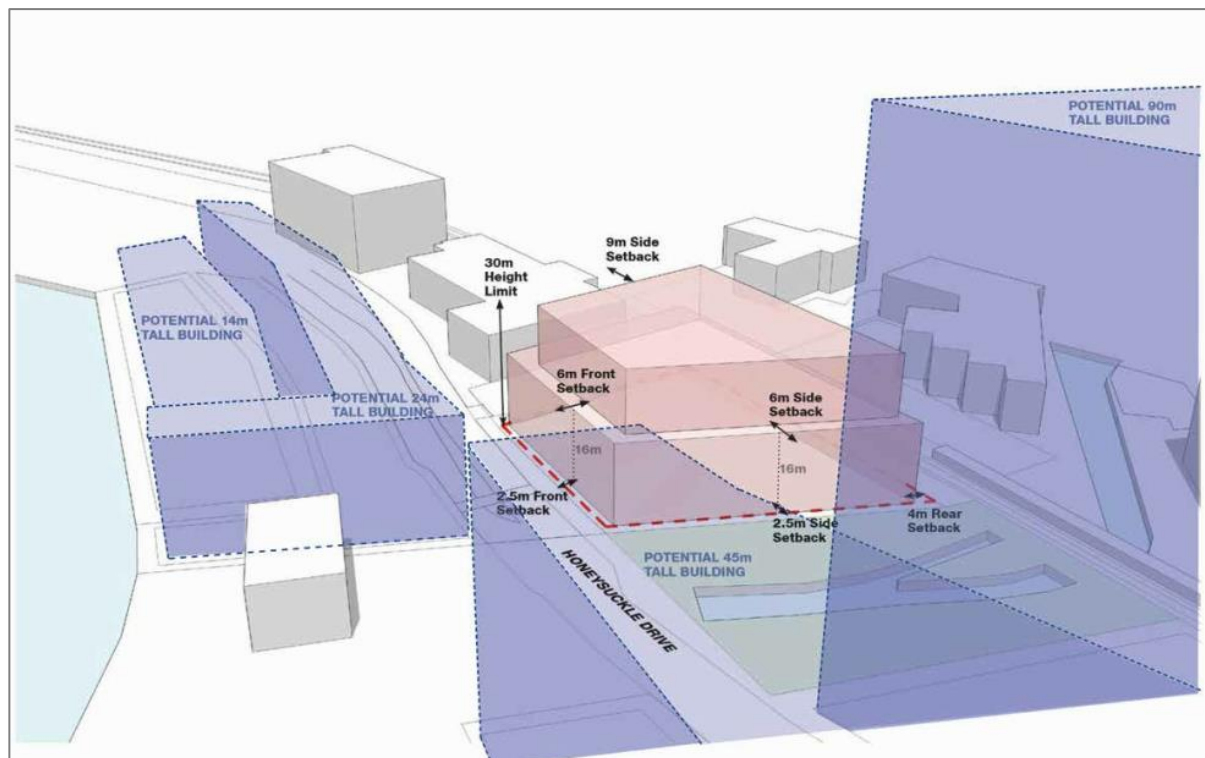
It is considered that the proposed amendments improve the built form and reduce the overall height of the towers. While there are minor areas where the building envelope exceeds what has been previously lodged overall the view impact is reduced. Specially for 738 Hunter Street (Figure 9) which increases the viewing access to the harbour between the towers, which an otherwise complaint envelope would not provide.

As outlined in the Figures 8 & 9 above and Figure 10 below any compliant development at 30m in height is going to have significant impact on the water views of the existing residential apartments, notwithstanding future development along



the foreshore. An extract from the amended plans in Figure 10 below shows the proposed development on the subject site and the potential heights for future development within the vicinity. This demonstrates that the existing residential developments surrounding the site were always going to be impacted under the foreshore proposed development precinct.

**Figure 10 - Height Context**



**Step 4 – The fourth step is to assess the reasonableness of the proposal, taking note of compliance with planning controls and non-compliances.**

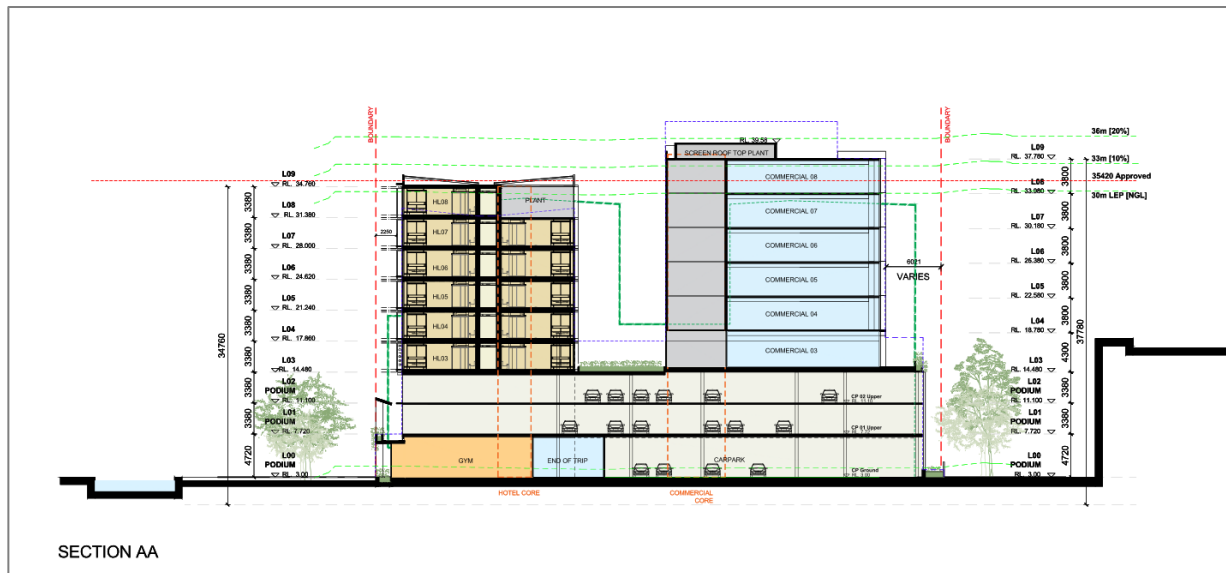
The proposed development has been designed with consideration made towards the surrounding locality and Council's statutory and non-statutory controls where possible. It is acknowledged that the proposed development results in variations to the Newcastle LEP 2012 building height control. The subsequent non-compliances include a 19.26% variation, at the highest point, noting that the proposed amendments reduce the highest point by 2.25m from what was originally lodged. This LEP variation is addressed and considered justified within the Clause 4.6 variation letter submitted with the RTS report and the height exceedance has been in continual discussion with the Department of Planning, Infrastructure and Environment and the Government Architect.

To reiterate the justification provided within the submitted Clause 4.6 variation letter, the proposed development and resulting variations sought to the Newcastle LEP 2012 are considered reasonable for the following reasons:

- + The current built form comprises a tower component (outlined in red in Figure 8 and 9) which results in a height not too dissimilar to what is proposed.
- + Overshadowing plans have been prepared to distinguish whether the proposed height exceedance results in any overshadowing on surrounding properties. The proposed height exceedance will not limit solar access to surrounding sites or the public domain.
- + The proposed additional height does not result in unreasonable bulk in comparison to the locality and is not considered to result in adverse amenity or environmental impacts.
- + The proposal is considered to satisfy the objectives of height applicable to the site.

Based on the above and the submitted Clause 4.6 variation letter which further justifies the LEP variation sought, it is considered the proposal is reasonable in view loss and negligible compared to the LEP compliant scheme. Figure 11 below outlines the proposed development compared to the approved scheme (shown red dashed line), the addition in height is minimal, specifically when considering views from surrounding developments.

**Figure 11 - Extract Detailing Section (Bates Smart Appendix D, pg. 1)**



## 5 NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

Under the Newcastle DCP 2012 Section 6.01 Newcastle City Centre provides controls relating to new development retaining significant views. Extracts of the relevant performance criteria is provided below, while the DCP controls do not relates to SSD an assessment has been provided below:

### Section 6.01 >B2.1 Performance Criteria

*Public views and sight lines to key public spaces, the waterfront, prominent heritage items and landmarks are protected.*

### Section 6.01 >B2.2 Performance Criteria

*New development achieves equitable view sharing from adjacent development.*

The proposed development is considered to meet the objectives to Section 6.01 - B2 Views and Vistas for the following reasons:

- + The proposed development will not greatly exceed impacts on views and sightlines when compared to the LEP approved envelope and future development potential of surrounding sites approved to the waterfront, in this instance being the harbour; and
- + The proposed development will not adversely impact views and sightlines to any prominent heritage items.

## **6 CONCLUSION**

The assessment against the four (4) steps established under *Tenacity Consulting v Waringah* [2004] NSWLEC 140, as well as Council DCP objectives, revealed that the overall proposed development will have no further impact when compared to the approved plans under SSD 8440 or the lodged plans under SSD 10378.

Yours sincerely



Clare Brennock  
**Client Director**  
**KDC Pty Ltd**