

Newcastle City Centre - East End Building Heights

Amendment to Height of Buildings Map

May 2017

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Newcastle City Centre - East End Building Heights

Summary of Proposal

Proposal	The Planning Proposal intends to: <ul style="list-style-type: none">amend the Height of Buildings Map to be consistent with the approved concept plan for the land bounded by Hunter, Newcomen, King and Perkins Streets, Newcastle.			
Property Details	Lot	DP	House No.	Street Name
	1	77846	105	Hunter Street
	B	388647	109	Hunter Street
	A	388647	111	Hunter Street
	31	864001	121	Hunter Street
	32	864001	137	Hunter Street
	A	89504	147	Hunter Street
	1	84577	151	Hunter Street
	10	1043870	153	Hunter Street
	1	610140	163	Hunter Street
	1	749729	169 - 185	Hunter Street
	1	331535	22	Newcomen Street
	2	331535	3	Morgan Street
	1	36955	66-74	King Street
	500	879162	98 & 33	King Street & Wolfe Street
	1	718456	104	King Street
	1	998359	106	King Street
	100	810457	108	King Street
	1	735255	110	King Street
	1	84634	14	Thorn Street
	1	195975	15	Wolfe Street
	B	89504	21	Wolfe Street
	1	122380	31	Wolfe Street
			(Road)	Laing Street
	Applicant Details	Newcastle City Council		

Background

In December 2012 the Department of Planning and Infrastructure released the draft Newcastle Urban Renewal Strategy (NURS) for public comment. The strategy was prepared in collaboration with the City of Newcastle. It was released as an evidence based document and supported by extensive technical work in the areas of economics, transport, heritage and design.

The Department received 420 submissions during the public exhibition period. While many submissions raised concerns about the truncation of the rail line, the strategy on the whole was well received by the community.

The GPT Group and Urban Growth NSW made a joint submission in relation to land the NSW government owns with the GPT Group in the city centre. The submission requested a significant increase to building heights on three development sites within its landholding. The requested height limits were:

- RL 69.5 for site at the corner of King and Perkins Streets, which was 42.5 metres higher than what was exhibited
- RL 54.5 for the site in Wolfe Street, which was 27.5 metres higher than what was exhibited, and
- RL 58.5 for the site at the corner of King and Newcomen Streets, which was 34.5m higher than what was exhibited.

In March 2014, the Department of Planning publicly exhibited the requested increased height limits along with other changes to the Strategy. 266 individual submissions, a petition with 500 signatures and an online petition with 676 submissions were received (*Newcastle City Centre Finalisation Report* June 2014). The majority of submissions objected to the proposed heights on the GPT/Urban Growth site. Concerns raised included:

- the potential impacts of the proposed building heights on views, the skyline, overshadowing and heritage character,
- the short exhibition period, which was only for 16 days.

Following the exhibition, the Department recommended to the Minister for Planning that the height limits for two of the development sites be set to match the parapets of the Christ Church Cathedral nave (58.9m). It also recommended that a 10% variation be allowed if a design competition was held.

These recommendations were accepted by the Minister for Planning and the amendments were made to the Newcastle LEP 2012 in July 2014. The original height limits for the three development sites under the Newcastle LEP 2012, the heights proposed by the draft Newcastle Urban Renewal Strategy, the requested heights by the landowners, the gazetted building heights and the intended heights by this planning proposal are shown in the following table for the three development sites.

Site	Height* under Newcastle LEP 2012 prior to the NURS	Height* exhibited in Draft NURS	GPT / Urban Growth Submission request	Gazetted height	Height intended by this Planning Proposal
Corner King & Perkins Streets	24m + cl 7.9(4)**	27m	RL 69.5m	RL 58.9m	RL 42
Wolfe Street	24m + cl 7.9(4)**	27m	RL 54.5m	RL 54.5m	RL 42
Corner King & Newcomen Streets	24m + cl 7.9(4)**	24m	RL 58.5m	RL 58.9m	RL 42

* height measured above ground level

**cl. 7.9(4) permits heights up to 40mAHD provided the site is greater than 10,000m² and the development does not adversely impact on views to and from Christ Church Cathedral and the Hunter River foreshore.

In addition, the draft Newcastle Urban Renewal Strategy recommended that clause 7.9(4) be deleted from the LEP. This clause applied to the land bounded by Hunter Street, King Street, Newcomen Street and Perkins Street and allowed a maximum height of 40m AHD for a consolidated site area in excess of 10,000m² subject to the height not unreasonably impacting on view corridors to and from Christ Church Cathedral and the Hunter River foreshore. The Minister for Planning also accepted this recommendation and subclause (4) was removed from the Newcastle LEP 2012 as part of the amendments made to implement the Newcastle Urban Renewal Strategy.

Due to the inconsistencies between the gazetted building heights and the Newcastle Urban Renewal Strategy, Council at its meeting of 9 December 2014, considered a Lord Mayoral Minute and resolved to:

- 1 *Write to the Minister for Planning and request that the Newcastle LEP 2012 be amended with respect to building heights for the lands and buildings to the southern side of Hunter Street Newcastle, between Perkins and Newcomen Streets extending south to King Street, together with two sites to the northern side of Hunter Street at the intersection with Market Street, by returning those building heights to those previously endorsed by the community and amend the Height of Buildings Map to include a maximum permissible height of 40 AHD over the land.*
- 2 *Should the Minister decline this request, Council prepare a planning proposal to the Newcastle LEP 2012 to reflect amendments to the Height of Buildings Map to include a maximum permissible height of 40 AHD to reflect these amendments.*

Council wrote to the Minister on 13 January 2015 to formally request that the Newcastle LEP 2012 be amended. The Minister for Planning responded on 5 March 2015, declining the request.

Report to Council

Council endorsed a planning proposal to amend the Height of Buildings Map to 24 metres for the site and re-insert clause 7.9(4) at its meeting held on 24 November 2015. The Planning Proposal was sent to the Department of Planning and Environment on 2 December 2015.

Advice from the Department of Planning and Environment

On 21 March 2016, advice was received from the Department of Planning and Environment in relation to the planning proposal. The Department raised concerns regarding the proposal to re-insert clause 7.9(4) into the Newcastle LEP 2012 as the planning proposal did not address

the concerns raised in the draft Urban Renewal Strategy 2012 that led to the removal of the clause from the LEP.

Concept plan approval

On 28 April 2016 the Joint Regional Planning Panel approved a concept plan for a mixed use re-development of the site. The concept plan contains various building heights across the site including a reduction in the building height on the three tower sites to RL 40 - RL 42 (including services/lift overruns).

Current planning proposal

This planning proposal intends to amend the Height of Buildings Map to be consistent with the building heights approved in the concept plan by the Joint Regional Planning Panel (JRPP). It does not intend to re-insert clause 7.9(4) due to the concept plan approval satisfying the requirements of the proposed clause.

Clause 7.9(4) applied to the area bound by Hunter, Newcomen, King and Perkins Streets, where the site area was greater than 10,000m². It provided for increased building height to 40m AHD where the impact of the increased height did not result in unreasonable impacts on specified view corridors to and from Christ Church Cathedral. The approval by the JRPP applies to this area and to a site of over 10,000m². The JRPP assessment concluded that:

Subject to satisfaction of the conditions the proposed development will have no unacceptable impacts on the built or natural environments including the heritage character of the locality, the amenity of nearby residential premises, and the performance of the local road network.

The JRPP approved a staged development application for a concept proposal over the site. This approval satisfies clause 7.9(4). The building heights approved in the concept proposal will form the amended building heights map so that it is no longer necessary to include clause 7.9(4) in the planning proposal.

Council resolution 28 February 2017

Council resolved at its Ordinary Business meeting held on 28 February 2017 to:

- i) endorse the attached planning proposal (**Attachment A**) to amend the Height of Building Maps of the Newcastle LEP 2012 in relation to land bounded by Hunter, Newcomen, King and Perkins Streets, Newcastle
- ii) forward the planning proposal to the Department of Planning and Environment (DPE) requesting that a draft Local Environmental Plan be prepared and made pursuant to section 59(1) of the *Environmental Planning & Assessment Act 1979 (EP&A Act)*
- iii) The building heights be amended in line with the decision of the Joint Regional Planning Panel of 28 April 2016.

The planning proposal has been amended to increase building heights on two sites: the terraces and Masonic Hall on King and Thorn Street and the Market Square building on Hunter Street from RL 24 and RL 20 to 24m above ground (for both sites).

Site

The site is approximately two hectares in area and is bounded by Hunter, Newcomen, King and Perkins Streets, Newcastle. The site is known locally as the "GPT/Urban Growth site" and

includes the former David Jones car park and former Hunter Street Mall. See **Figure 1** Local Context of the Site.

The site area is characterised by land which falls from The Hill northward to the harbour edge, by the orthogonal grid of streets, relatively small regular city blocks, by a rich variety of architectural heritage and relatively smaller scale buildings. See **Figure 2** Air photo of the site.

Figure 1: Local Context

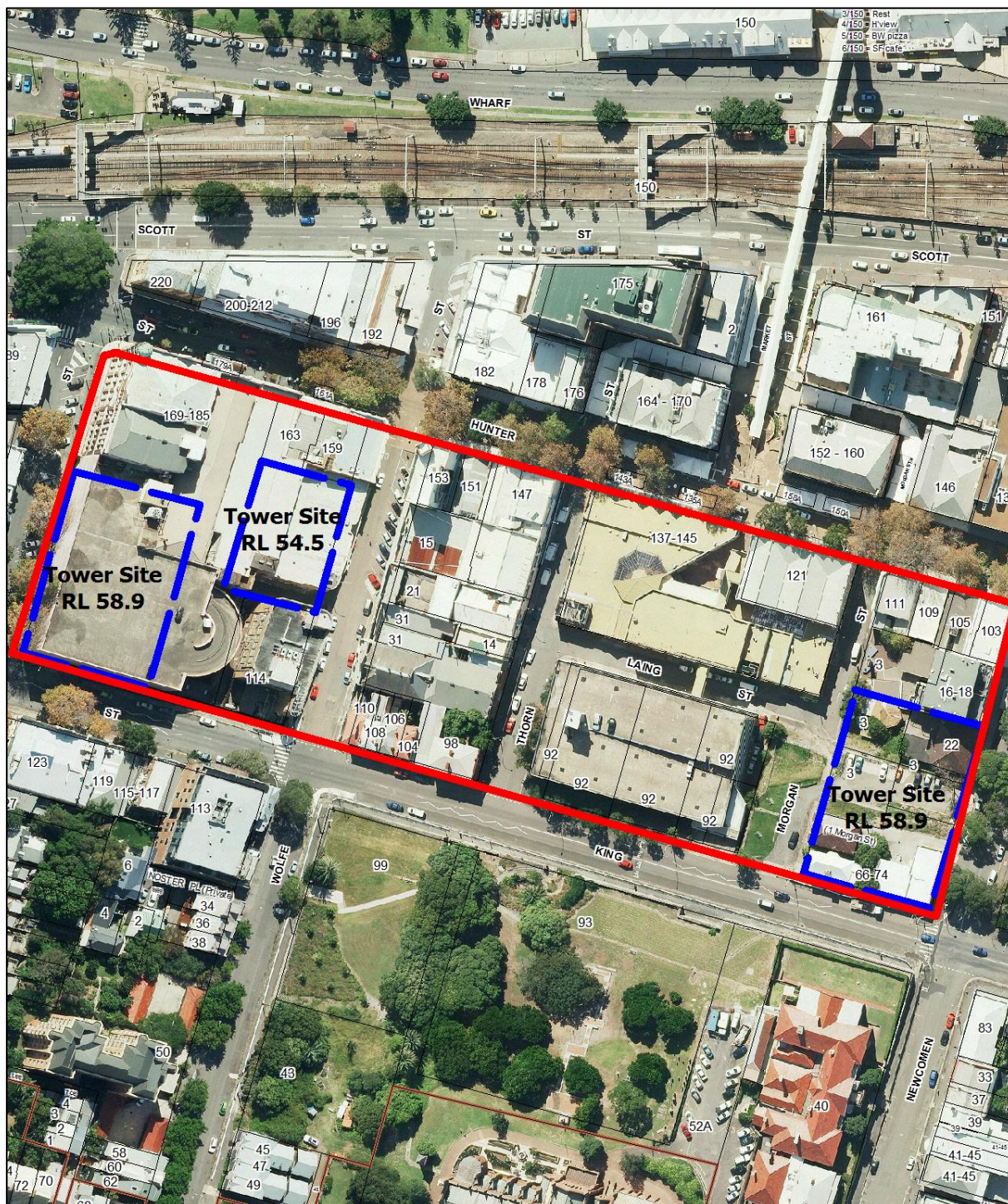


Figure 2: Air Photo



Site area

Part 1 - Objectives or Intended Outcomes

The objectives of the Planning Proposal are to:

- support the initiatives outlined in the Newcastle Urban Renewal Strategy 2012
- reinforce, support and protect the unique heritage landscape of the City
- respect the unique topography of the area and existing urban form of The Hill and Christ Church Cathedral
- facilitate revitalisation of Newcastle City Centre by enabling a balanced mix of retail, commercial and residential development in both the medium and longer term
- promote heritage tourism
- align the maximum allowable building heights under the LEP with the approved building heights under the concept development application approval issued by the Hunter & Central Coast Joint Regional Planning Panel on 28 April 2016.

The intended outcomes of the planning proposal are to have building heights in place that allow for a vertical mix of land uses and are of an appropriate height and scale to respect the heritage of the area and maintain the dominant landscape of the Cathedral on the hill. This will be achieved by limiting building heights to the top of the hill / base of the Cathedral.

Part 2 - Explanation of Provisions

The intended outcomes will be achieved by:

- Amending the Height of Buildings Map to provide a range of building heights over the site as shown on **Figure 3** Height of Buildings Map.

A comparison between the existing height limits, the height limits approved in the concept plan for the development of the site and the proposed heights by this planning proposal are provided in the table below.

Site	Existing building height limit*	Concept Plan height limit (building envelope)	Proposed height limit
Hunter St between Perkins and Wolfe Sts (including former David Jones store)	35m and 27m Comparative RL: 37m(RL)* and 30m(RL)*	29m(RL), 39.8m(RL), 33.6m(RL)	29m(RL), 40m(RL), 34m(RL)
Former David Jones carpark (Perkins and King Sts)	58.9m(RL)	13.1m(RL)podium level, 40m(RL)building height, 42m(RL) services/lift overrun	42m(RL)
Hunter St between Wolfe and Thorn Sts	24m Comparative RL: 27m(RL)*	26.1m(RL)	26m(RL)
Hunter St between Thorn and Morgan Sts	24m Comparative RL: 28.5m(RL)*	30.2m(RL), 20m(RL)	30m(RL), 24m
Hunter St and Newcomen St	24m Comparative RL: 30m(RL)*	28.35m(RL)	29m(RL)

Site	Existing building height limit*	Concept Plan height limit (building envelope)	Proposed height limit
King St and Newcomen St	58.9m(RL)	40m(RL) building height, 42m(RL) services/lift overrun	42m(RL)
King St between Thorn and Wolfe Sts	24m Comparative RL: 37.5m(RL)*	24m(RL)	24m
Western side of Wolfe St between Hunter and King Sts	54.5m(RL)	40m(RL) building height, 42m(RL) services/lift overrun	42m(RL)
Eastern side of Wolfe St between Hunter and King Sts	24m Comparative RL: 27.5m(RL)*	29.4m(RL)	30m(RL)
Laing St	27m	24m	24m

*Where existing building height limits are expressed in metres (m), this refers to the vertical distance between ground level and the highest point of the building.

The RL (reduced level) of a building is the distance from Australian Height Datum (AHD) to the maximum height of the building.

Where existing building height limits are expressed as "m" (metres above ground) the table above provides an RL based upon the ground level taken at the street frontage to enable a comparison with the RLs that are approved in the concept plan and proposed in this planning proposal.

Note: Existing height limits applied more broadly across sites than the concept plan and proposed RLs, which are applied more precisely to development sites.

Part 3 – Justification

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

Yes. The Planning Proposal is based on the draft Newcastle Urban Renewal Strategy 2012 as it was originally drafted and exhibited. This Strategy is a robust evidence based strategy supported by detailed technical studies, site specific modelling and has broad community support. The Strategy and the planning proposal are mechanisms to deliver a solid basis for the long term renewal of the city centre.

Council's Urban Design Consultative Group (Council's constituted SEPP 65 panel) considered the proposed changes to planning controls for the city centre at its meeting held on 16 July 2014. It briefed Councillors on the outcomes of its deliberations at the Council meeting held on 9 December 2014.

Specifically, in relation to the GPT/Urban Growth site the Urban Design Consultative Group meeting minutes state:

The proposed amendment to the 2012 LEP represents a very substantial change in the permitted building heights and types of development. This would bring about a significant departure from the urban design strategies of successive planning control instruments that have been in place in the city over several decades, which have consistently focused upon maintaining and enhancing the legibility of the unique land form of the Hill with its fine-grained, generally low scale development.

In particular the fabric of the city has evolved on the basis of an urban form which is focused on, and steps up to the historic hilltop form of Christ Church Cathedral. The Cathedral dominates the existing topography of the city providing a cohesive focus for development of the lower lands to the north, cascading down to the harbourside. Because of both the relatively low scale of, and generally sensitive development in the past, and the introduction of the innovative DCP 30 'Urban Design Guidelines' in 1993, these unique qualities have been maintained.

This part of the urban fabric of Newcastle is reflective of other long-valued international cityscapes and their relationship to iconic buildings. Comparable examples include: the section of the City of London that is focused on St Paul's Cathedral; Philadelphia, USA focused on that city's town hall; the riverside cities of Bristol UK focused on its Gothic Style University Tower; and Edinburgh focused on the topography and structure of Edinburgh Castle. In Paris a tower block in the 1970's was so visually intrusive in the Montmartre area that all future high-rise building were required to be located in La Defense, outside the central city perimeter. We should learn from all of these international examples that the precious character of a historic city can be readily destroyed or compromised by the introduction of tall or insensitive buildings.

The distinct urban form at the centre of the city of Newcastle is a critical part of the historic character and visual identity of the region, and it is the Group's view that it must be respected by any new development. In Newcastle, the adopted urban strategy is for tall towers to be located at Wickham, where they will not be intrusive and destroy the unique qualities of the historic city.

The proposed increase in permissible heights on three sites to permit tall residential towers above retail podiums is of particular concern, due to its impacts upon the legibility of the landform and character of this important part of the heart of the city. While it is suggested that certain limited view corridors to and from the Cathedral can be preserved under the controls, this ignores the more significant visual perception of the area as part of a broader panorama.

The three tower sites are the former David Jones car park (corner King and Perkins Streets); the former David Jones Food Hall site in Wolfe Street; and the elevated site at the corner of Newcomen and King Streets, opposite the Newcastle Club and Cathedral Park. The Group is of the view that the existing LEP represents the maximum heights that these sites can be developed to, without serious negative visual impact on the overall area. Broadly, this control is a maximum above ground height of 24metres, with a provision for development on the Newcomen Street site not exceeding AHD 40 because of its elevated ground level.

In relation to permitted FSR controls for the area, it is noted that the current instruments effectively provide for a "bonus" FSR of up to 4:1 if employment generating activities such as commercial and retail are proposed for the area, with a lesser density being applicable to residential development. It appears that the proposed amendments to the LEP will permit the higher FSR of 4:1 for residential development, and that this density may be averaged out across all of the GPT/Urban Growth NSW land holdings over three street blocks. The result of this will be actual FSR levels in the order of 10:1 on the nominated sites permitting increased heights. The Group considers such residential densities to be quite inappropriate for this area. Furthermore, it appears probable that these sites will be used in future as precedents for permitting much higher densities being applied to nearby sites under different ownership.

The proposed strategy of granting Development Approval to a broad Masterplan for the area, to be followed by more detailed staged Development Applications for individual sites, means that documentation at Masterplan stage is unlikely to be sufficient in detail to permit a thoroughgoing assessment of residential amenity, streetscape quality and functional aspects such as retail servicing and traffic issues.

With respect to a rationale for the proposed very significant departure from existing height and density controls for the area, the Group does not believe the available evidence supports any claim that viability of the retail and commercial components of development of the site is dependent upon the inclusion of a large quantum of residential units within the development area itself. The Eastern peninsular of the city has benefited from a number of substantial

additions to residential and tourist accommodation over the last six years in particular, and this in combination with developments currently under consideration will supplement the existing residential catchments for retail and services in the CBD.

Since these comments were made a concept plan approval has been granted by the JRPP that has reduced building heights on the tower sites to RL40 - RL42 (including services/lift overrun) and provides for a better result in maintaining the hilltop form of the Cathedral. The Urban Design Consultative Group reviewed the concept plan and provided qualified support to the proposal.

Previous Council planning controls

Successive planning instruments in place in the Newcastle city centre since the late 1980s have consistently focused on maintaining and enhancing the legibility of the unique land form of the Hill with its fine-grained character and human scale. The Cathedral dominates the existing topography of the city, providing a cohesive focus for development of the lower lands to the north, cascading down to the harbourside. Controls were put in place after the earthquake of 1989 to limit building heights to the top of the hill and base of the Cathedral and ensure the distinctive landscape profile of the city centre and views of the Cathedral were unimpeded from across the city and beyond. This part of the fabric of Newcastle is reflective of other long-valued international cityscapes and their relationship to iconic buildings, e.g. the City of London that is focused on St Paul's Cathedral as mentioned in the Urban Design Consultative Group's report.

Prior to the City Centre DCP being made by the Director-General in 2008, Council's development controls for the site were contained in DCP 57 - City East. In relation to views of the Cathedral, DCP 57 noted that: *"[view corridors] are not individually named as each corridor has been incorporated into the overall height limits shown on map 16."* Map 16 of DCP 57 showed the following heights for the three tower sites:

- corner of King and Newcomen Streets 13m* at King Street
- King and Perkins Streets 25m*
- Wolfe Street 25m*

**Building height was measured in DCP 57 as metres above the level of the public street immediately adjacent to that part of the site.*

Council's adopted Heritage Strategy 2013-2017 provides for the following vision for heritage in Newcastle:

As we move towards 2030, the City of Newcastle will be a leader in local government heritage management by providing outstanding services to the community in a manner which is economically sustainable and respects the diversity and significance of local heritage to the people of Newcastle. The City of Newcastle's heritage assets will be well managed and presented, reinforcing the city's attractiveness as a heritage tourism destination and strengthening its reputation as a smart, liveable and sustainable city.

For Urban renewal to occur in Newcastle, it is essential to maintain the unique physical character of the city. New development must strengthen and support its defining features such as the Cathedral on the Hill and unique streetscapes of the East End and the Hill. The planning proposal intends to reinforce the building heights approved by the JRPP in the concept plan which have been subject to assessment and found acceptable for maintaining the character of this area of Newcastle East.

Newcastle Urban Renewal Strategy

The Newcastle Urban Renewal Strategy 2012 was supported by detailed technical studies including an economic assessment (undertaken by Hill PDA), commissioned by the Department of Planning to examine specific sites for potential redevelopment in the city centre. The purpose of the assessment was to compare the redevelopment outcomes under the existing Newcastle built form controls with revised height, density, car parking and land use mix controls. It made a number of recommendations in relation to the GPT/Urban Growth landholdings. These include:

- That the Christ Church Cathedral is a Newcastle icon and should be protected and preserved in any renewal initiatives.
- That the built form of the Hunter mall precinct is intended to provide a vertical mix of land uses to allow the more profitable residential uses to subsidise the commercial/retail floor space and to encourage the re-purposing of heritage buildings.
- The Commercial Core Zone could remain. However, a Mixed Use Zone, which would permit a vertical mix of uses, may also be appropriate in order to encourage redevelopment and revitalisation of this part of the City Centre.
- There are various examples where increasing density on the fringe of a centre has led to revitalisation of a centres core and contributed to the sustainability of retail uses (south of King Street and in the East End).
- Whilst residential remains the most viable land use, the ability of the City Centre to accommodate retail and commercial floorspace needs to be preserved.

A reduction in building height is appropriate for the site to remain consistent with the Newcastle Urban Renewal Strategy 2012 and approved concept plan. The proposed height limits for the site will ensure that an appropriate built form that allows for city centre revitalisation while ensuring that maximum building heights do not detract from the character of this very sensitive part of the city are provided.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The planning framework must support the initiatives outlined in the draft Newcastle Urban Renewal Strategy 2012 and should be consistent with the approved building heights in the concept plan for the development of the site. The amendment to the Height of Buildings Map is the best and only way of achieving this outcome. There are no other mechanisms in the Newcastle LEP 2012 which can achieve the same outcomes.

Section B - Relationship to strategic planning framework

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Lower Hunter Regional Strategy (2006)

The Lower Hunter Regional Strategy applies to the land. The aim of this Strategy is to ensure that adequate land is available to accommodate the projected housing and employment growth in the Hunter Region over the next 25 years.

The Strategy promotes Newcastle as the Regional City of the Lower Hunter and contains job and dwelling projections for the Newcastle city centre of 10,000 additional jobs and 4000 new dwellings.

The proposal will reinforce the City of Newcastle as a Regional City with a commercial centre focus as identified in the Lower Hunter Regional Strategy. It promotes mixed use development and supports a medium to long term approach to ensuring that an appropriate balance between residential and employment growth is achieved. The Newcastle Urban Renewal Strategy, as originally exhibited, identified sufficient capacity to accommodate housing and employment targets under the Lower Hunter Regional Strategy. This proposal, being consistent with the Newcastle Urban Renewal Strategy 2012 and approved concept plan, will therefore not compromise these targets.

Note: this Strategy was repealed upon the adoption of the Hunter Regional Plan 2036.

Hunter Regional Plan 2036

The Hunter Regional Plan states the NSW government's vision for the Hunter as:

The leading regional economy in Australia with a vibrant new metropolitan city at its heart

The Hunter Regional Plan contains four goals to assist in achieving this vision:

Goal 1 - The leading regional economy in Australia

Goal 2 - A biodiversity-rich natural environment

Goal 3 - Thriving communities

Goal 4 - Greater housing choice and jobs

Each goal is supported by directions and actions. This planning proposal is consistent with the vision and relevant goals, directions and actions of the Hunter Regional Plan. In particular, the planning proposal is consistent with:

Direction 3 - Revitalise Newcastle City Centre - the planning proposal intends to set a planning framework that is consistent with the initiatives of the Newcastle Urban Renewal Strategy.

Direction 19 - identify and protect the region's heritage - the planning proposal will facilitate the adaptive re-use of heritage buildings and protect iconic views of Christ Church Cathedral.

Direction 20 - revitalise existing communities -the planning proposal intends to ensure the city centre is attractive for existing and new residents with a diverse range of services and activities in the area.

Direction 22 - promote housing diversity - the planning proposal responds to the demand for additional housing in the city centre for a diverse range of people from students to families, retirees and professionals.

In addition, the Hunter Regional Plan intends for a metropolitan plan to be prepared by the government for Greater Newcastle with a vision for a, ' *vibrant new metropolitan area with global*

gateways that maximise exports and tourism and a centre of excellence for health and education'.

Four key elements will form the basis of the metropolitan plan:

- connect strategic centres in Greater Newcastle
- develop a national Centre of Excellence for Health and Education
- expand the capacity of Global Gateways - Newcastle port and airport
- establish governance.

The planning proposal will not hinder the achievement of this vision or the key elements of the metropolitan plan once it is prepared.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Newcastle 2030 Community Strategic Plan

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011. The Plan was revised and updated in 2013. The planning proposal aligns with many of the strategic directions but is particularly relevant to implementing the following:

Liveable and Distinctive Built Environment

Objective 5.1 A built environment that maintains and enhances our sense of identity

In preparing the Community Strategic Plan, the Newcastle community said that:

We want an attractive city built around people. We want urban form on a human scale providing physical and social connections. We want urban form that supports us in living sustainably, encourages safe activity, invites people in and enhances our sense of place.

Newcastle's renewal will depend on its unique physical character being maintained. New development must strengthen and support its defining features such as the Cathedral on the hill. The reduction of height limits to reflect the approved concept plan is consistent with this objective for the following reasons:

- The community has overwhelmingly been in favour of maintaining the existing building heights to allow the historic East End to remain intact and for the iconic view corridors to the Cathedral to be protected. The Department of Planning's Newcastle City Centre Finalisation Report mentioned a total of 266 submissions received together with a written petition signed by over 500 people and an online petition with 676 signatures in relation to the exhibition of the Newcastle Urban Renewal SEPP. These submissions were received within an unusually short timeframe for public comment.
- The report stated that the majority of submissions were concerned about the heights proposed for parcels within the Hunter Street Mall/East End Precinct – on the corner of King and Perkins Street, and on Wolfe Street. The submissions cited a number of reasons for their concern, including impacts of building heights on the city skyline, views to significant landmarks such as the Christ Church Cathedral, overshadowing, and the general heritage and character of the city centre.
- The concept development application, on which the currently proposed heights are based, received 23 submissions during the public exhibition period. Maximum allowable building heights and impacts on views to/from the Cathedral and Park were again raised as a significant issue. The assessment report concluded that the reduced heights of the concept plan achieved desired built form outcomes and would contribute to revitalisation of the city centre subject to further detailed design documentation with future development

applications. The concept plan was recommended for approval. On 28 April 2016 the JRPP approved the concept plan with conditions.

For urban renewal to occur in Newcastle, it is essential to maintain the unique physical character of the city. New development must strengthen and support its defining features such as the Cathedral on the Hill and unique streetscapes of the East End and The Hill. The planning proposal intends to reinforce building heights that will protect the distinctive character of the Newcastle City Centre.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the following table.

Table 1 - Consideration of State Environmental Planning Policies

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 1 (Development Standards)	No	
State Environmental Planning Policy No 14 (Coastal Wetlands)	No	
State Environmental Planning Policy No 15 (Rural Landsharing Communities)	Repealed	
State Environmental Planning Policy No 19 (Bushland in Urban Areas)	No	
State Environmental Planning Policy No 21 (Caravan Parks)	No	
State Environmental Planning Policy No 26 (Littoral Rainforests)	No	
State Environmental Planning Policy No 29 (Western Sydney Recreation Area)	Repealed	
State Environmental Planning Policy No 30 (Intensive Agriculture)	No	
State Environmental Planning Policy No 32 (Urban Consolidation)	Repealed	
State Environmental Planning Policy No 33 (Hazardous and Offensive Development)	No	
State Environmental Planning Policy No 36 (Manufactured Home Estates)	No	
State Environmental Planning Policy No 39 (Spit Island Bird Habitat)	Repealed	
State Environmental Planning Policy No 44 (Koala Habitat Protection)	No	
State Environmental Planning Policy No 47 (Moore Park Showground)	No	
State Environmental Planning Policy No 50 (Canal Estate Development)	No	
State Environmental Planning Policy No 52 (Farm Dams and Other Works in Land and Water Management Plan Areas)	No	
State Environmental Planning Policy No 55 (Remediation of Land)	No	
State Environmental Planning Policy No 59 (Central Western Sydney Economic and Employment Area)	Repealed	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 62 (Sustainable Aquaculture)	No	
State Environmental Planning Policy No 64 (Advertising and Signage)	No	
State Environmental Planning Policy No 65 (Design Quality of Residential Flat Development)	Yes	Yes. Council's SEPP 65 Panel provided comments on the height limits for the revised concept plan and provided qualified support for the proposal. Any future development of the site will be assessed where relevant in accordance with the SEPP provisions.
State Environmental Planning Policy No 70 (Affordable Housing (Revised Schemes))	No	
State Environmental Planning Policy No 71 (Coastal Protection)	Yes	Yes - the reduced building heights will allow for a more suitable type of development given its type, location and design and its relationship with the surrounding area.
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	
State Environmental Planning Policy (Infrastructure) 2007	No	
State Environmental Planning Policy (Major Development) 2005	Repealed	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	No	
State Environmental Planning Policy (Rural Lands) 2008	No	
SEPP (State and Regional Development) 2011	No	
State Environmental Planning Policy (Three Ports) 2013	No	
State Environmental Planning Policy (Urban Renewal) 2010	Yes	Yes - the planning proposal intends to give effect to the initiatives of the urban renewal strategy that was prepared by the Director-General of the Department of Planning & Infrastructure under the Urban Renewal SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the table below.

Table 2 - Consideration of Section 117 Directions

S117 Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	Yes	Yes- the planning proposal is consistent as it aims to facilitate revitalisation of Newcastle City Centre by enabling retail and commercial floorspace in the Newcastle City Centre, encouraging tourism and enabling residential development in the medium and long term.
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	Yes	Yes - the planning proposal is consistent with the principles of the Coastal Design Guidelines for NSW.
2.3 Heritage Conservation	Yes	Yes - The planning proposal will support the re-purposing of heritage items within the site and support heritage based tourism.
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	Yes	Yes - the planning proposal will support the efficient and viable operation of public transport by increasing residential density in this part of the city.
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes	Yes - the land contains Class 5 Acid Sulfate Soils. Preliminary assessment of whether any proposed works requires the preparation of an acid sulfate soils management plan can occur at development application stage.

S117 Direction	Applicable	Consistent
4.2 Mine Subsidence and Unstable Land	Yes	<p>Yes - the site is within the Newcastle Mine Subsidence District and "Guideline B" applies, which requires geotechnical investigations prior to development occurring. The concept development application was reviewed by the Mines Subsidence Board. The Board indicated it had no objection in principle to the proposed development but details of specific structures would need to be submitted for consideration before approval could be granted.</p> <p>Given this planning proposal intends to reduce building height from the currently gazetted height limits, the planning proposal is considered consistent with the provisions of this direction.</p> <p>It is further noted that the gateway determination did not require consultation with any public authorities to comply with the requirements of relevant S117 Directions.</p>
4.3 Flood Prone Land	Yes	Yes - a small portion of the site is affected by flooding. The proposal is not rezoning the site or increasing the density of permissible uses.
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes - the proposal is consistent with the Lower Hunter Regional Strategy as it will reinforce Newcastle as the Regional City providing for residential accommodation that supports but does not dominate or hinder the City from functioning as a higher order commercial / service centre and is consistent with the economic goals of the Hunter Regional Plan as discussed in section B of this planning proposal.
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.8 Second Sydney Airport: Badgerys Creek	No	

S117 Direction	Applicable	Consistent
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	

Section C - Environmental, social, and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site is currently developed for urban purposes and the planning proposal has no potential for critical habitat or threatened species, populations or ecological communities, or their habitats, to be adversely affected.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Mine Subsidence

The site is located within the Newcastle Mine Subsidence District. The planning proposal intends to reflect building heights that have already been approved by the JRPP. Any future development on the site will be referred to the Mine Subsidence Board for comment.

Hydrology and Water Management

Part of the site adjoining Hunter Street is identified as being located within a flood prone area. The planning proposal is not rezoning, intensifying or otherwise altering land uses permitted within this area.

Bushfire

The site is not identified as bushfire prone land on either the Newcastle Bushfire Prone Land Map 2009 or the Draft Newcastle Bushfire Prone Land Map 2014.

Heritage

The site is located within the Newcastle City Centre Heritage Conservation Area. Several listed heritage items exist both within the site and in the nearby vicinity. This includes Christ Church Cathedral, which is listed on the State Heritage Register. The intention of the planning proposal is to reinforce building heights as originally intended by the Newcastle Urban Renewal Strategy and subsequent concept development application for the site. The JRPP's assessment of the concept development application concluded that development that is consistent with the approved concept plan would not have unacceptable impacts on the heritage character of the locality.

The current, significantly higher building heights, are more likely to have negative impacts on the cultural heritage values of the Newcastle City Centre.

Contamination

As this planning proposal intends to reduce building heights, there are no implications with regard to **SEPP No 55 (Remediation of Land)**. Future Development on the site will, however, be required to undertake the necessary due diligence studies, reporting and, if necessary, remediation.

Traffic Impacts and Vehicular and Pedestrian Access

The Planning Proposal is not expected to have additional impact on Traffic or vehicular and pedestrian access.

Traffic impacts, vehicular and pedestrian access were considered in the assessment of the concept development application. This included referral to the RMS. Impacts were considered to be acceptable.

9. Has the planning proposal adequately addressed any social and economic effects?

Yes, the planning proposal intends to reinforce planning controls that have been through a concept development application assessment process and determined by the JRPP. Social and economic effects were considered in the assessment and found to be acceptable.

The social and economic effects of the existing height limits were not so rigorously considered. If the current height limits remained, development of three towers in this location may hinder City Centre revitalisation in the following ways.

1. Establishment of a new view to Christ Church Cathedral from limited vantage points

In response to concerns raised about the height controls on views to Christ Church Cathedral the Department identified that the most iconic view of the Cathedral was from Stockton (approximately one kilometre away) and that provided buildings did not exceed the height of the Cathedral tower, the Cathedral would remain the dominant building on the skyline. It therefore established that height limits in the East End could be to the parapet of the Cathedral's nave. The Department further noted that this height limit could be exceeded by 10% if a design competition was held.

This is a significant change to the view of the Cathedral which up until that time had been considered to be from the base of the Cathedral, as evidenced from the existing skyline and from many vantage points across the City. The precedent this sets for the city is significant and should be subject of discussion with Newcastle residents. The Cathedral on the hill is Newcastle's point of difference from other cities and should be protected and preserved in any renewal initiatives as proposed in the Newcastle Urban Renewal Strategy.

2. Change in function from city centre to city fringe

The Newcastle Urban Renewal Strategy considered that this site could be zoned either B3 Commercial Core or B4 Mixed Use. It was always considered that it would remain part of the city centre and offer a range of retail/entertainment/leisure uses. The introduction of the residential towers and reduction in retail/commercial uses to less than 50% of what was proposed by GPT in 2008/09 in effect changes the nature of Newcastle East from city centre to city fringe that is more appropriately zoned R4 High Density Residential. Reducing the city centre to Newcastle West and the Civic Precinct was not analysed or discussed in the Newcastle Urban Renewal Strategy. It is appropriate for the Newcastle community to be involved in this shift in functioning of its city centre.

The revised concept plan again reduces the amount of commercial/entertainment floor space in favour of residential in this area. However, this concept plan and mix of development has been approved by the JRPP.

3. No link to achieving the initiatives identified in the Newcastle Urban Renewal Strategy 2012

The provision of three stand-alone residential tower sites means that they can be sold and developed on their own with no requirement to repurpose heritage buildings in Hunter Street or provide mixed use development or any of the initiatives outlined in the Newcastle Urban Renewal Strategy. The "capturing" of the FSR from other sites to the tower sites, further reduces the viability of other sites being redeveloped.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes. Reducing building heights will not create any additional public infrastructure demand.

The amendment to Newcastle LEP 2012 to more than double the existing heights to allow for residential development, did not address whether existing public infrastructure, such as public transport, roads, utilities, waste management and recycling services, essential services such as health, education and emergency services would be adequate to serve or meet the needs of the proposal.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

In accordance with the Gateway Determination consultation is not required with any public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions.

Part 4 – Mapping

The planning proposal seeks to amend the following maps within Newcastle LEP 2012.

- Height of Buildings Map

The Matrix below indicates (with an “X”), which map sheets (of Newcastle LEP 2012) are to be amended as a result of this planning proposal (eg. FSR_001C)

	FSR	LAP	LZN	WRA	ASS	HOB	LSZ	LRA	CL1	HER	URA
001											
001A											
001B											
001C											
001D											
002											
002A											
002B											
002C											
002D											
002E											
002F											
002G											
002H											
003											
004											
004A											
004B											
004C											
004D											
004E											
004F											
004FA											
004G						X					
004H											
004I											
004J											
004K						X					

Map Codes:	FSR	=	Floor Space Ratio map
	LAP	=	Land Application Map
	LZN	=	Land Zoning Map
	WRA	=	Wickham Redevelopment Area Map
	ASS	=	Acid Sulfate Soils Map
	HOB	=	Height of Buildings Map
	LSZ	=	Lot Size Map
	LRA	=	Land Reservation Acquisition Map
	CL1	=	Key Sites Map & Newcastle City Centre Map
	HER	=	Heritage Map
	URA	=	Urban Release Area Map

The following maps illustrate the proposed amendments to the Newcastle LEP 2012 maps:

Figure 3: Existing Height of Buildings Map

Figure 4: Proposed Height of Buildings Map

Figure 3 - Existing Building Heights

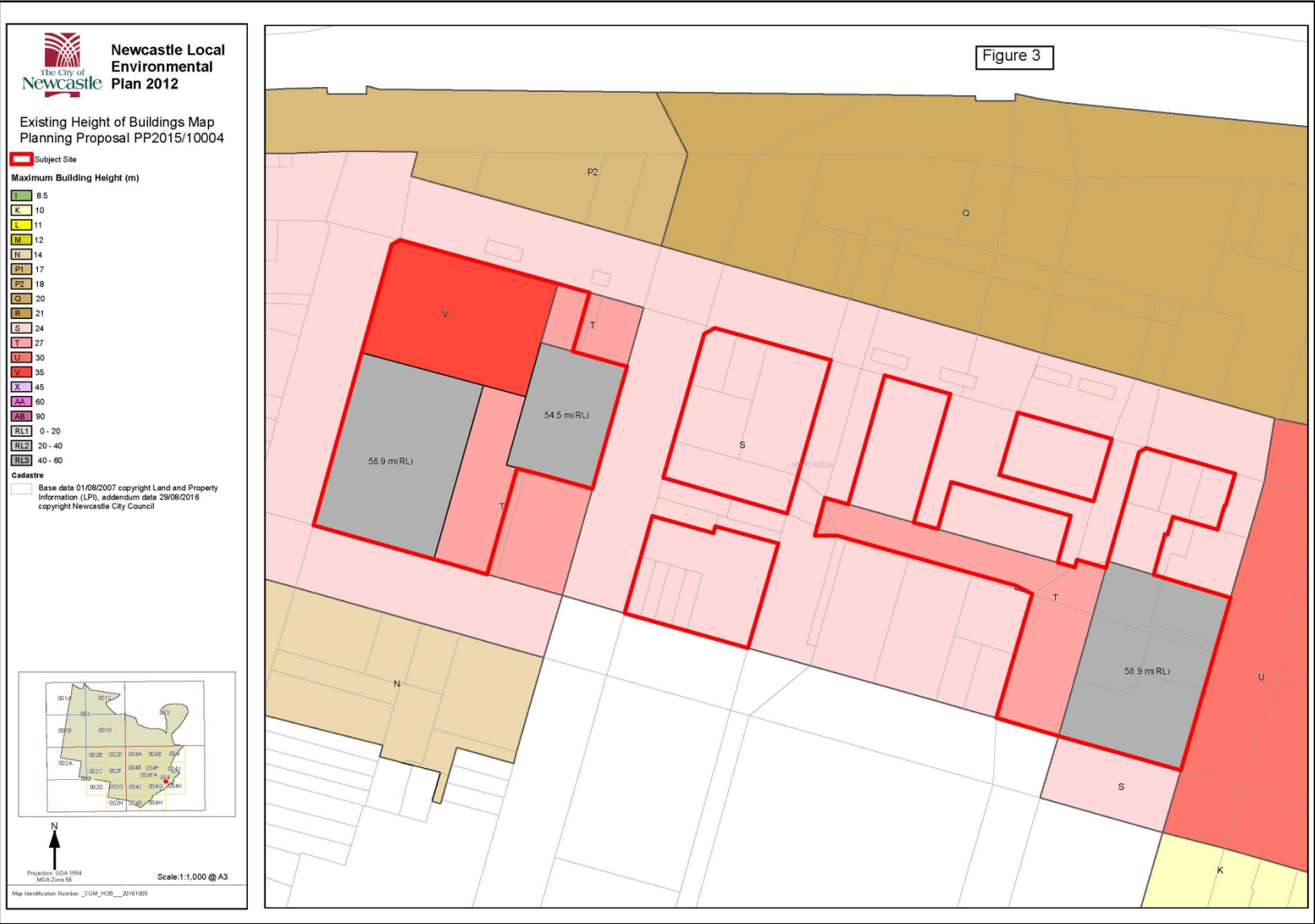


Figure 4 - Proposed Building Heights



Part 5 – Community Consultation

The planning proposal was publicly exhibited for 28 days in accordance with the requirements of the gateway determination and section 57 of *the EP&A Act 1979*.

Notification of the community consultation was provided in the local newspaper and on Council's website. In addition, relevant landowners and the local resident group received written notification. The public exhibition was carried out in accordance with section 5.5.2 of *A Guide to Preparing Local Environmental Plans*

The exhibition period was from 24 October 2016 to 21 November 2016. Seven submissions were received. No objections were raised to the proposed LEP amendments. Specific comments made in the submissions are provided in the table below.

Comment	Response
Preference for a maximum 24 metre height limit, however planning proposal provides a better outcome than the existing height limits	Noted.
Supports correction of over development of the site.	Noted.
Supports protection of heritage character of Newcastle East through reduced building heights.	Noted.
Supports retention of Christ Church Cathedral as the dominant feature on the city's skyline through reduced building heights.	Noted.
Proposed building height, design and finishes, and use of cranes during construction of development could impact sight lines to navigation aids in Newcastle harbour.	Council will consult with the Port Authority on development applications lodged within the site area.
Finalise the amendments as soon as possible.	Noted.

On 13 February 2017, SJB Planning made a submission to Council on behalf of the new owners of the site. The submission requested that the planning proposal be amended for two sites: the terraces and Masonic Hall in King and Thorn Streets and the Market Square building on Hunter Street. The submission requested that the building heights remain at 24m above ground. The Planning Proposal intended to lower the building heights to match the height of the existing buildings.

The planning proposal has been amended as requested in the SJB submission.

Part 6 – Project Timeline

The project is expected to be completed within 12 months from Gateway Determination. The following timetable is proposed:

Task	Planning Proposal Timeline											
	Sep 16	Oct 16	Nov 16	Dec 16	Jan 17	Feb 17	March 17	April 17	May 17	June 17	July 17	Aug 17
Issue of Gateway Determination												
Exhibition of planning proposal and technical studies												
Review of submissions and preparation of report to Council												
Report to Council following exhibition												
Planning Proposal sent back to Department requesting that the draft LEP be prepared												