

JRPP No.	2012HCC019
DA No.	DA2012/549
Proposal	Demolition of structures and erection of a commercial/residential building including hotel and basement car park to be completed in two stages and stratum subdivision of car park
Property	Lot: 5 DP: 1145847 & Lot: 4 DP: 1029006 1 KING STREET NEWCASTLE
Applicant	Kred Pty Ltd
Report By	The City of Newcastle Council

Supplementary Assessment Report and Recommendation

The Joint Regional Planning Panel (JRPP) considered the proposed development on 13 June 2013. The Panel resolved that the determination be deferred for consideration at a future electronic meeting of the Panel, subject to receipt of a supplementary report from Council addressing the following issues:

1. Confirmation that drawing DA007P Car Park Level complies with the Concept Plan approval as modified, particularly in relation to whether the proposed hospitality and car parking areas identified on that plan are permitted within the approved Concept Plan building envelopes; and
2. Whether any intersection improvements are necessary at King & Watt Streets due to the absence of any vehicular access to the proposal from Watt Street.

This supplementary report addresses the above matters and should be considered in conjunction with the original Council assessment report of 13 June 2013.

Item 1 - Building Envelopes

The site currently has a number of different levels due to part of the site being occupied by the existing car park and part of the site, following demolition of the former hospital, being vacant. The existing levels range from RL25 at the south west corner (adjacent to Shortland Esplanade) to RL8.4 in the north-east corner (excavated area). For the purposes of considering appropriate levels a more useful reference point are the levels within Shortland Esplanade that range from RL 25 at the western end of the site to RL18 at the eastern end of the site.

The proposed forecourt area (Car Park Level roof – sheet DA008) is nominated at RL22.4, which is at the same level as Shortland Esplanade at the western side of this forecourt area (i.e. driveway entry point). Due to the slope of the land the forecourt extends to a height of approximately 4m (or one-storey) above Shortland Esplanade at the eastern side and includes parking and hospitality underneath. This parking and hospitality area, that sits above street level (from approximately Grid Line 5 on Sheet DA007 Car Park Level), is approximately 350m² in area. The JRPP have queried whether this area is permitted under the Concept Plan building envelopes.

This aspect of the development should be considered having regards to Clause 3B) d) of Schedule 6A of the Environmental Planning and Assessment Act 1979, relating to development applications made under a Concept Plan, which states:

'a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan.'

The proposed development need to be only 'generally' consistent with the Concept Plan to be permitted.

The Concept Plan approval indicates that the modifications (i.e. conditions) to Concept Plan take precedence to the extent of any inconsistency with the approved documentation.

Condition 4 states:

'Approved building heights are to be in accordance with the drawing referenced 2911-CONCEPT AREA 29/10/2012 titled Newcastle Royal Hospital Site Plan Showing Proposed Concept Plan Area & Revised Building Envelopes, prepared by deWitt Consulting, dated 29/10/2012.'

Figure 1 below is the proposed site plan with the approved Concept Plan building envelope map overlain.

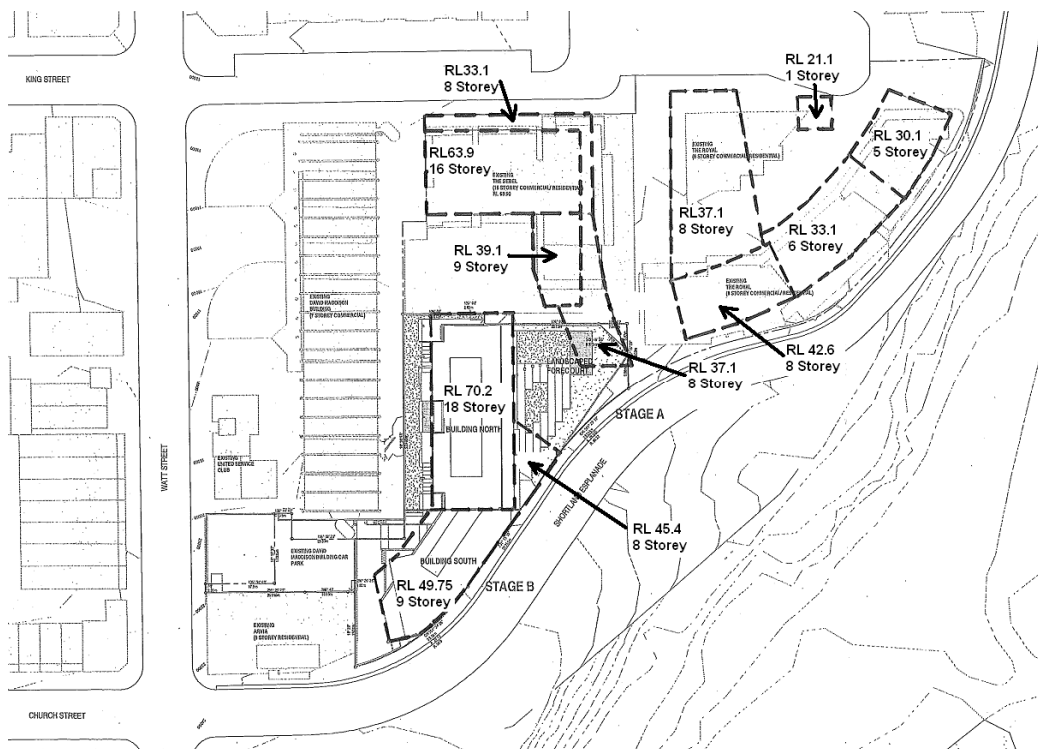


Figure 1 - Proposed Site Plan with Concept Plan MP05_0062 building envelopes overlain.

As can be seen the highest part of the Car Park Level falls primarily within the envelope nominated at 8 Storeys/RL37.1. It is apparent that the Concept Plan did envisage that there could be built form within this section of the site. The area of the Car Park Level that sits above street level and outside the eight storey envelope is approximately 170m² in area. This represents approximately 1% of the entire developments GFA. Such a minor variation could not reasonably be considered to result in a development that was not generally consistent with the building envelopes of the Concept Plan.

The approved Concept Plan envelope map does not provide any guidance on the areas between the envelopes. A thorough review of all approved documentation under the Concept Plan has been undertaken. The Site Design Principles as approved under the Concept Plan are silent on the matter of the treatment of the areas between the building envelopes. The Preferred Project Report dated 24 November 2006 (as referenced in the Concept Plan approved documentation) proposed the following heights (**Figure 2**).

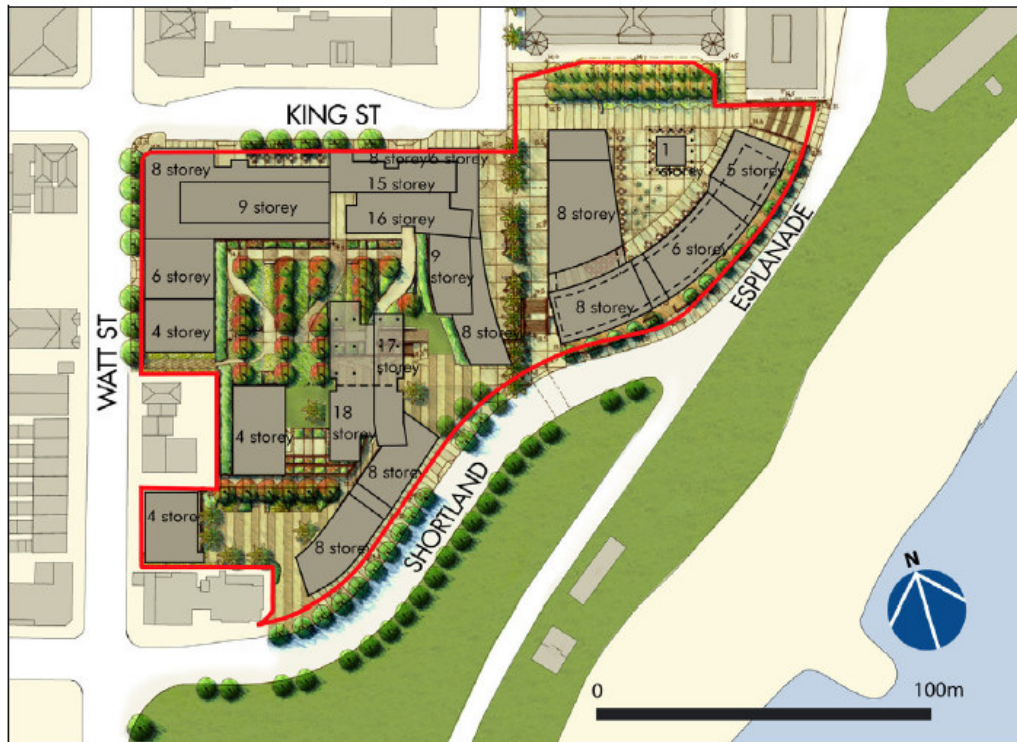


Figure 2 – Proposed building heights – Preferred Project Report, dated 24 November 2006 (Concept Plan MP05_0062)

The proposed height map (Figure 2), while generally superseded by the Concept Plan building envelope map, does provide some further clarity in terms of the areas between the envelopes. It indicates open space between the envelopes and also has a level of RL18.5 nominated at the north-west corner of the open space area within which the forecourt is proposed. This level is similar to Shortland Esplanade at the eastern end of the site which would imply that a level open space area adjacent to the Shortland Esplanade frontage is desired. It is agreed that useable level open space between the higher building footprints is desirable and the proposed development is considered consistent in this regard. Such a level also confirms that under the Concept Plan it was envisaged that the sections of the site currently below Shortland Esplanade can be built within, even outside the nominated building envelopes. This is also supported by the description of the Concept Plan which included 'basement car parking'.

However, the nominated level at RL18.5 on this map is not practically achievable. Such a level in this open space area would require a cut of approximately 4m below Shortland Esplanade at the western side. Due to slope it is simply not possible to achieve a continuous level open space area along the Shortland Esplanade frontage without either a cut or fill. An objective of the Concept Plan (outlined within the

Preferred Project Report, dated 24 November 2006) was to improve the pedestrian amenity of Shortland Esplanade. It would be highly undesirable to the activation of Shortland Esplanade to locate the open space area up to 4m below the footpath level. It would also raise ongoing safety concerns for Council with safety railing required to prevent pedestrian falling into the site.

The proposed development that has a progressively elevated open space area terminating in the habitable 'hospitality area' underneath (at the eastern end) is considered a much better resolved outcome, enabling a more active street edge. It is therefore considered that the forecourt area of the proposed development has achieved the objective of the Concept Plan and that the habitable area underneath is a positive design outcome for the site and public domain area.

In summary the 'forecourt' area is considered to be consistent with the objectives of the Concept Plan to improve pedestrian amenity of, and achieve level open space adjacent to, Shortland Esplanade. The elevated nature of the forecourt area, at the eastern end, is a product of the sloping nature of Shortland Esplanade. It is considered that to utilise underneath the forecourt area for car parking and hospitality (i.e. the 'Car Park Level') is not inconsistent with the Concept Plan. In any regards the higher sections of this level (at the eastern end) sit generally within a building envelope nominated as up to eight storeys in height. Accordingly the 'Car Park Level' is considered to be generally consistent with the Concept Plan, including the building envelopes and therefore can be permitted.

During the JRPP consideration of the proposal on 13 June 2013 it was suggested that the external door to the hospitality area be restricted to emergency egress only. This could assist in minimising patron noise and has been included as an additional condition in the recommendation.

Item 2 – King & Watt Street Intersection

The JRPP sought further information in relation to whether any intersection improvements are necessary at King & Watt Streets due to the absence of any vehicular access to the proposal from Watt Street.

A Council Senior Development Officer (Traffic) has provided the following advice in this regard.

"The traffic consultant has reviewed the operation of the intersection of King & Watt Streets pre and post development using the Sidra Program. The Sidra analysis confirmed that the intersection continued to operate at an acceptable level of service with spare capacity. In this regard the highest average delay was less than 20 seconds per vehicle during the morning and afternoon peak periods, representing a level of Service B. On this basis an upgrade of this intersection is not considered to be warranted."

Recommendation

Grant approval to DA2012/0549, subject to the schedule of conditions contained within **Appendix A** of the Council assessment report dated 13 June 2013 and the following additional condition.

- The external door to the hospitality area being restricted to emergency exit only.

