

Appendix I – Newcastle City Centre Local Environmental Plan 2012 – Compliance Table

Development Standard	Requirement	Proposal	Compliance
Clause 4.4 Floor space ratio	<p><i>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</i></p> <p><i>(2A) Despite subclause (2), the maximum floor space ratio for a building on land in any zone in this Plan is to be determined as if the area of the access laneway of a battle-axe lot were not part of the area of the lot.</i></p> <p>The floor space ratio maps identify that the site has an FSR of 3:1.</p>	<p>The development (including the southern building) has a GFA of 14,722.7m² and with a site area of 3,619m² equates to an FSR over 4:1. Therefore does not comply.</p> <p>However Schedule 6A, Clause 3B(2)(f) of the Act states:</p> <p><i>(f) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan,</i></p> <p>The proposal complies with the maximum GFA under the approved concept plan and is considered acceptable. This is discussed under Part 6 of the report.</p>	No – but acceptable due to compliance with Concept Plan
Clause 4.3 Height of buildings	<p><i>(c) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map</i></p> <p>The height maps identify that the site has a height limit of 35 metres.</p>	<p>Northern building approximately 56.7m above ground level (including plant) and does not comply.</p> <p>However Schedule 6A, Clause 3B(2)(f) of the Act states:</p> <p><i>(f) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are</i></p>	No – but acceptable due to Concept Plan

		<p><i>inconsistent with the terms of the approval of the concept plan,</i></p> <p>The proposal complies with the maximum height limit under the approved Concept Plan and is therefore considered acceptable. This is discussed under Part 6 of the report.</p>	
<p>Clause 5.5 Development within the coastal zone</p>	<p><i>(2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:</i></p> <p><i>(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:</i></p> <p><i>(i) maintaining existing public access and, where possible, improving that access, and</i></p> <p><i>(ii) identifying opportunities for new public access, and</i></p> <p><i>(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:</i></p> <p><i>(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and</i></p> <p><i>(ii) the location, and</i></p> <p><i>(iii) the bulk, scale, size and overall built form design of any building or work involved, and</i></p> <p><i>(c) the impact of the proposed development on the amenity of the coastal foreshore including:</i></p> <p><i>(i) any significant overshadowing of the coastal foreshore, and</i></p>	<p>Existing access will not be affected.</p> <p>The suit is suitable for the development and appropriate in the context.</p> <p>The submitted shadow diagrams indicate some overshadowing of the beach during the afternoon however this was largely predetermined under the concept approval and is considered acceptable.</p>	<p>Complies</p>

	<p><i>(ii) any loss of views from a public place to the coastal foreshore, and</i></p> <p><i>(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and</i></p> <p><i>(e) how biodiversity and ecosystems, including:</i> <i>(i) native coastal vegetation and existing wildlife corridors, and</i> <i>(ii) rock platforms, and</i> <i>(iii) water quality of coastal waterbodies, and</i> <i>(iv) native fauna and native flora, and their habitats, can be conserved, and</i></p> <p><i>(f) the cumulative impacts of the proposed development and other development on the coastal catchment.</i></p> <p><i>(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:</i></p> <p><i>(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and</i></p> <p><i>(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</i></p> <p><i>(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock</i></p>	<p>The development would not unreasonably affect views from a public place.</p> <p>The proposed development does not adversely affect coastal headlands.</p> <p>The development site is devoid of vegetation and the development would not impact biodiversity.</p> <p>The proposed development is well above sea level and not affected by coastal processes or hazards.</p> <p>The development would not result in adverse cumulative impacts.</p> <p>The proposal will not impact access.</p> <p>The development will be connected to the existing sewerage system.</p> <p>Stormwater discharge is proposed to be discharged to Council's drainage system.</p>	
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	<p><i>platform, and</i></p> <p><i>(d) the proposed development will not:</i></p> <p><i>(i) be significantly affected by coastal hazards, or</i></p> <p><i>(ii) have a significant impact on coastal hazards, or</i></p> <p><i>(iii) increase the risk of coastal hazards in relation to any other land.</i></p>		
Clause 5.10 Heritage conservation	<p><i>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</i></p>	As outlined under Part 6 – Concept Plan considerations of the report a Heritage Impact Statement has been submitted that identifies that the proposal would not adversely affect European and non-European heritage.	Complies
Clause 6.1 Acid sulfate soils	<p><i>The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</i></p>	The site is identified as 'Category 5' on the Acid Sulfate Soils Map. The proposal is considered acceptable in relation to this clause.	Complies
Clause 6.2 Earthworks	<p><i>(3) Before granting development consent for earthworks, the consent authority must consider the following matters:</i></p> <p><i>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,</i></p> <p><i>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</i></p> <p><i>(c) the quality of the fill or the soil to be excavated, or both,</i></p> <p><i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p><i>(e) the source of any fill material and the destination of any excavated material,</i></p> <p><i>(f) the likelihood of disturbing relics,</i></p>	The application is supported by a geotechnical report and stormwater concept designs. The proposed earthworks are considered to be acceptable, subject to conditions of consent.	Complies

	<p><i>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</i></p> <p><i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p>		
Clause 6.4 Land in Zone R4 High Density Residential	<p><i>(4) This clause does not apply to land in Newcastle City Centre.</i></p>	Not applicable.	Not applicable.
Clause 7.4 Building separation	<p><i>(1) A building on land to which this Part applies must be erected so that the distance from the building to any other building is not less than 24 metres at 45 metres or higher above ground level.</i></p> <p><i>(2) For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.</i></p>	The SEE indicates that the separation between the northern building and the Sebel complies and the plans demonstrate the separation complies with this requirement.	Complies
Clause 7.5 Design excellence	<p><i>(3) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:</i></p> <p><i>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</i></p> <p><i>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</i></p> <p><i>(c) whether the development detrimentally impacts on view corridors identified in the Newcastle City Development Control Plan 2012,</i></p>	Consideration of Design Excellence has been discussed in accordance with the requirements of the Concept Plan.	Complies

	<p><i>(d) how the development addresses the following matters:</i></p> <p><i>(i) heritage issues and streetscape constraints,</i></p> <p><i>(ii) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i></p> <p><i>(iii) bulk, massing and modulation of buildings,</i></p> <p><i>(iv) street frontage heights,</i></p> <p><i>(v) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</i></p> <p><i>(vi) the achievement of the principles of ecologically sustainable development,</i></p> <p><i>(vii) pedestrian, cycle, vehicular and service access, circulation and requirements,</i></p> <p><i>(viii) the impact on, and any proposed improvements to, the public domain.</i></p> <p><i>(4) Development consent must not be granted to the following development to which this Plan applies unless an architectural design competition has been held in relation to the proposed development:</i></p> <p><i>(a) development for which an architectural design competition is required as part of a concept plan approved by the Minister for a transitional Part 3A project,</i></p> <p><i>(b) development in respect of a building that is, or will be, higher than 48 metres in height,</i></p> <p><i>(c) development having a capital value of more than \$5,000,000 on a site identified as a “Key Site” and shown edged heavy black and distinctively coloured on the Key Sites Map,</i></p> <p><i>(d) development for which the applicant has chosen to have</i></p>		
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	<p><i>such a competition.</i></p> <p><i>(5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.</i></p> <p><i>(6) The consent authority may grant consent to the erection or alteration of a building to which this clause applies that has a floor space ratio of not more than 10% greater than that allowed by clause 7.10 or a height of not more than 10% greater than that allowed by clause 4.3, but only if the design of the building or alteration has been reviewed by a design review panel.</i></p> <p><i>(7) In this clause:</i> architectural design competition means a competitive process conducted in accordance with procedures approved by the Director-General from time to time. design review panel means a panel of 2 or more persons established by the consent authority for the purposes of this clause.</p>		
Clause 7.9 Height of buildings	<p><i>2) The height of a building on land identified as “Area A” on the Height of Buildings Map must not exceed a height that is 22 metres above ground level (existing) at the boundary of the road frontage of that land on any part of that land that is within 20 metres of the boundary of the road frontage.</i></p> <p><i>(3) The height of a building on land identified as “Area B” on the Height of Buildings Map must not exceed:</i></p> <p><i>(a) on any part of that land that is within 20 metres of the boundary of the road frontage of that land—22 metres above ground level (existing) at the boundary of the road frontage of that land, and</i></p> <p><i>(b) on any part of that land that is more than 20 metres from the boundary of the road frontage of that land, but not more than 45 metres from that frontage—35 metres above ground</i></p>	The site is not within Area A or B.	Not applicable.

	<i>level (existing) at the boundary of the road frontage of that land.</i>		
Clause 7.10 Floor space ratio for certain development in Area A	<i>This clause applies to land in "Area A" as shown on the Floor Space Ratio Map.</i>	The site is not within Area A.	Not applicable.
Clause 7.10A Floor space ratio for certain other development	<i>The maximum floor space ratio for a building that is located on land with a site area of less than 1,500 square metres is whichever is the lesser of: (a) the floor space ratio identified on the Floor Space Ratio Map, or (b) 3:1.</i>	The subject site is larger than 1,500 square metres.	Not applicable.