

DATE OF DETERMINATION	28 September 2017
PANEL MEMBERS	Jason Perica (Chair), Michael Leavey, Clare Brown, Cllr Brad Luke
APOLOGIES	Kara Krason
DECLARATIONS OF INTEREST	<p>Jason Perica declared a non-pecuniary insignificant interest as he had worked on a proposal in Sydney with the architect, although had no personal, professional or ongoing association with the architect.</p> <p>Michael Leavey declared a non-pecuniary insignificant interest in that he shares office premises with the Council's consultant Planner Mr Tony Tuxworth, however operates a separate business to Mr Tuxworth.</p>

Public meeting held at Newcastle City Hall, 290 King St, Newcastle on 28 September 2017, opened at 3:00 pm and closed at 3.40pm.

MATTER DETERMINED

2016HCC035— Newcastle— DA 2016/00528 – Mixed Use Development at 990 Hunter St Newcastle West (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel generally agreed with the balancing of the assessment of environmental considerations as outlined in the Council report.





The Panel had regard to the applicants' clause 4.6 variation request regarding the maximum floor space ratio (FSR) limit within Clause 4.4 of Newcastle Local Environmental Plan 2012 ('the LEP'). While the proposal is below the 6:1 mapped FSR, the site is slightly below 1500sqm in area, which imposes a lower FSR of 3:1 due to Clause 7.10A of the LEP, to which the proposal exceeds. The Panel noted compliance with the height standard and was of the opinion the scale of the proposal was acceptable, and appropriate for the site, notwithstanding its size and configuration. The Panel was satisfied the applicant's written request satisfactorily addressed required matters within clause 4.6 of the LEP and it was considered compliance with the FSR limit was unnecessary and unreasonable in this case.

The proposal as amended had satisfactorily addressed issues of concern previously raised by the Panel and adequately responded to the terms of the previous deferral. Some aspects of detail warranted further attention and resolution, which was able to be addressed by conditions of consent, as amended.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Insertion of a new Condition stating:
1B The plans shall be amended to include access from within the building to the landscaped strip along the north-eastern boundary (adjoining the railway), for maintenance purposes. This shall be detailed in the application for a Construction Certificate to the satisfaction of the Certifying Authority.
Reason: To ensure the eastern landscaping and the lower east-facing levels of the building are able to be accessed for maintenance and any emergencies
- Insertion of a new Condition stating:
1C The South-Eastern wall of the carpark shall be detailed to provide visual interest and some visual relief (such as through recesses, materiality, texture, artwork and/or colours), to the written satisfaction of the Council prior to the issue of a Construction Certificate.
Reason: As this blank wall will be visually prominent until development of the adjoining site and warrants appropriate treatment to provide visual interest.
- Insertion of a new Condition stating:
1D If required, a substation shall be incorporated along the Hunter Street elevation within the building (not the north-western landscaped corner). Such a substation shall be incorporated within the parking area, necessitating the amendment of the parking and servicing layout (which may include the loss of up to 3 car spaces). If this location is not acceptable to the relevant energy supply authority (in which case written proof must be provided), then the substation may be incorporated into the "Retail 3" area. The plans shall be amended accordingly to comply with the above, to the written satisfaction of the Council prior to the issue of a Construction Certificate.
Reason: If a substation is required it should be provided in an appropriate location that minimises impacts on the streetscape and minimises impact on active uses and landscaped areas to Hunter Street.
- Insertion of a new Condition stating:
C42 The external cladding material shall be detailed in the application for a Construction Certificate and have thermal qualities which do not pose a fire safety threat to inhabitants of the building.
Reason: to ensure the safety of future inhabitants of the building.
- The revised BASIX Certificate shall be included in the list of approved documents in Condition A1.

PANEL MEMBERS	
 Jason Perica (Chair)	 Michael Leavey
 Clare Brown	 Councillor Brad Luke

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC035– Newcastle– DA 2016/00528
2	PROPOSED DEVELOPMENT	Demolition of existing buildings, erection of a 13-storey mixed use development including 76 residential units, three ground level commercial units, five floors of parking and associated site works.
3	STREET ADDRESS	990 Hunter Street Newcastle West
4	APPLICANT/OWNER	Brancourt Nominees
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Urban Renewal) 2010 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development Newcastle Local Environment Plan 2012 Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Section 94A Development Contributions Plan 2009 Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> and Regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 20 June 2017 Supplementary Council Assessment Report: received 15 September 2017 dated 208 September 2017 Written submissions during public exhibition: Nil Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – Nil Object – Nil On behalf of the applicant – various representatives answered questions
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing meeting 13 December 2016 Site inspection and briefing meeting 29 June 2017 Final briefing meeting to discuss council's recommendation, 28 September at [time]. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Jason Perica (Chair), Michael Leavey, Clare Brown, Cllr Brad Luke <u>Council assessment staff</u>: Tony Tuxworth (planning consultant for Council), Murray Blackburn-Smith
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report