

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING
PANEL

DATE OF DETERMINATION	16 March 2017
PANEL MEMBERS	Mr Jason Perica (Chair), Ms Kara Krason, Mr Michael Leavey
APOLOGIES	Brad Luke and Sharon Waterhouse
DECLARATIONS OF INTEREST	None

Public meeting held at Travelodge Newcastle, 12 Steel Street, Newcastle West on Thursday, 16 March 2017, opened at 4pm and closed at 5:10pm.

MATTER DETERMINED

2016HCC036 - Newcastle - DA2016/00564 - 643 Hunter Street, Newcastle West - Erection of 14 Storey Mixed Use Development Comprising of 128 Residential Units, Ground Floor Commercial Units, Two Levels of Parking and Associated Works (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

In terms of wider considerations, the Panel generally agreed with the environmental assessment and balance of considerations within the Council staff assessment report. The proposal was below the maximum FSR and height, was consistent with zone objectives and provided appropriate activation to the corner site (subject to refinement through conditions).

The Panel had regard to the advice of the Councils UDCG, as well as other matters to be considered under SEPP 65 and associated ADG. While some concerns were held regarding the above-ground parking, the Panel noted constraints related to flooding, as well as treatment of above-ground parking to adequately screen the car park from the public domain and contribute positively to the streetscape (further enhanced by a recommended condition of consent).

The proposed setback to the southern side boundary was a concern, particularly relating to relationship with the adjoining southern site upon future redevelopment. However, given the size and proportions of the adjoining southern site and likely outlook and massing options available (including the benefits of massing closer to King Street), as well as further conditions to address the privacy interface, the Panel accepted the side boundary non-compliance.

The Panel had regard to representations by the applicant to reduce/remove s94 and public art conditions on the basis of possible affordable housing and/or financial implications. The Panel did not support varying these conditions as the proposal was not for affordable housing, the public artwork condition was consistent with Council's policy and was warranted given proposed above-ground parking.

Overall, subject to conditions, the Panel was of the view the proposal was suited to the site.

CONDITIONS




The Panel imposed a number of amendments or new conditions (detailed below). These amendments were imposed to:

- Improve the southern elevation and privacy relationship with the adjoining site to the south (now and in the future) given the non-compliance with the southern side setback;
- Improve the podium presentation to Hunter Street and Steel Street;
- Appropriately provide for and regulate accessible parking, having regard to accessible units and DDA requirements;
- Appropriately allocate parking to uses;
- Ensure ventilation measures are provided and appropriately detailed;
- Ensure appropriate garbage storage and removal was achieved;
- Increase active frontage at ground floor as far as is possible while meeting regulatory and infrastructure requirements;
- Ensure compliance with the overall height limit (particularly noting different processes were involved if the proposed height was higher) and to detail compliance with sunlight access requirements within SEPP 65 and associated ADG.

The development application was approved subject to the conditions in the Council Assessment Report subject to the following additional conditions or amendments to recommended Council staff conditions:

- a) Amendment of proposed Condition 6 to add a sentence:
"Additionally, the proposed parking provision for those with a disability shall also meet the requirements of the aforementioned 2010 Standard, including appropriate allocation of accessible parking to the proposed accessible units."
- b) Amendment of proposed Condition 8 to add the following sentence:
"Any additional parking for those with a disability after compliance with this Condition and Condition 6 shall be such to not increase the overall provision of 134 cars, but may reduce the quantum of parking below this to comply with accessible parking requirements. To the extent of any inconsistency with Condition 7, this condition shall prevail".
- c) Incorporation of a new condition after Condition 2 stating:
"Floor plans of levels 4-13 and the southern elevation shall be amended to ensure the southern side windows to the rear bedrooms units both to the east and west of the central internal corridor have a minimum sill height of 1500mm above FFL and shall be horizontally proportioned. No balconies to the south of these window openings are permitted and the external treatment of any "vertical bays" in the southern elevation associated with these bedroom windows shall not create the visual effect of balconies and shall also have regard to difficulties of access for maintenance, while still providing a differential design element in the southern elevation composition. Details shall be provided to the written satisfaction of the Council prior to the approval of the Construction Certificate".
- d) Incorporation of a new condition after Condition 2 stating:
"The treatment of the two above-ground parking levels to Hunter Street and Steel Street shall be amended to ensure the "Proposed metal screen" extends across the full width of the north and east elevations and is detailed to be both visually interesting (akin to artwork) and of minimal visual permeability to the carpark behind (while still achieving ventilation). The detailing shall complement both the podium details of the proposed development as well as the strong masonry base of the adjoining development to the west. Details shall be provided to the written satisfaction of the Council prior to the approval of the Construction Certificate".
- e) Incorporation of a new condition stating:
"The tandem parking spaces are only to be allocated to staff parking for the commercial premises and/or the residents of the 2 bedroom and 3 bedroom residential units and tandem spaces shall be allocated to the same unit or commercial tenancy and accessible parking shall be appropriately allocated to units in any application for a Subdivision Certificate."
- f) Incorporation of a new condition stating:
"The design and layout of the garbage area shall be adequate to both store and remove garbage from the premises. In this regard, the garbage area shall be accompanied by a Management Plan, in accordance with Council's policies, for the operation of the waste area, with the application for a Construction Certificate".
- g) Incorporation of a new condition stating:
"The proposed and approved ventilation "chimneys" within units (to improve cross-ventilation and given non-compliance with cross-ventilation within SEPP 65) shall be retained and detailed in the Construction Certificate, although also detailed to allow internal regulation/operation of the vents, and also measures to ensure compliance with fire spread requirements of the BCA".

- h) Incorporation of a new condition stating:
"The communal room on Level 3 may include side blade walls on (or close to) the southern boundary to the minimum length required to meet BCA requirements while allowing operable doors to the adjoining podium rooftop areas".
- i) Incorporation of a new condition stating:
"The proposed Fire Boosters to Steel Street shall be relocated southwards to be within the services area or reduced in width to the greatest extent possible, in order to increase the active frontage to Steel Street, with details to be included in the application for a Construction Certificate".
- j) Incorporation of a new condition stating:
"The building shall not exceed 48m in height, (to a maximum of RL50.30m AHD), as measured using the definition of Building Height in NLEP 2012. Compliance with this condition is to be demonstrated prior to the issue of a Construction Certificate. Certification of this shall occur prior to the issue of an Occupation Certificate for any units on Level 12 of above".
- k) Incorporation of a new condition stating:
"The application for a Construction Certificate shall demonstrate compliance with the 70% access to sunlight requirement within the Apartment Design Guide associated with SEPP 65, to the satisfaction of the Certifying Authority".
- l) Incorporation of a new condition stating:
"The fencing around the private courtyards at Level 3 are to have a minimum height of 1.5m above finished floor level and be of a solid material to adequately screen these spaces from the adjacent communal open space".
- m) Incorporation of a new condition stating:
"A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.
- n) Incorporation of a new condition stating:
Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (NSW) (the 'Act') are to be complied with:
a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
c) Council is to be given at least two days' notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.
- n) Incorporation of a new condition stating:
This consent does not include approval for signage. Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.
- o) Incorporation of a new condition stating:
"Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development' as specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place".

PANEL MEMBERS	
 Mr Jason Perica (Chair)	 Ms Kara Krason
 Mr Michael Leavey	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC036 - Newcastle - DA2016/00564
2	PROPOSED DEVELOPMENT	Erection of 14-storey shop top housing development (128 residential units and ground floor commercial units), two levels of parking (136 spaces) and associated works.
3	STREET ADDRESS	643 Hunter Street, Newcastle West
4	APPLICANT: OWNER:	Catholic Diocese of Maitland-Newcastle Hunter Development Corporation
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 (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 State Environmental Planning Policy No 64—Advertising and Signage Newcastle Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Section 94A Development Contributions Plan 2009 Planning agreements: Nil <i>Environmental Planning and Assessment Act 1979</i> and <i>EPA Regulation 2000</i>: Nil 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> or 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: 2 March 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 – Matt DeWitt and Patrick Bless
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	Site visit and briefing meeting on 16 March 2017
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report