

JRPP No.	2017HCC018 DA
DA No.	Development Application DA-2017/00701
Proposal	Concept Development Application for a major redevelopment of Hunter Street Mall, a mixed use development comprising retail, commercial, public spaces, residential (563 apartments), associated car parking & site works
Property	105-111, 121, 137-145, 147, 151-153, 163, 169-185 Hunter Street; 22 Newcomen Street; 3 Morgan Street; 66-74, 98-102, 104, 108-110 King Street, 14 Thorn Street and 21, 31, 33, 58 Wolfe Street Newcastle
Applicant	Iris Land Pty Ltd
Report By	TCG Planning on behalf of the City of Newcastle Council

Assessment Report and Recommendation

Executive Summary

Background

In April 2016, a Concept Development Application (No. 2015/10182) was approved by the Joint Regional Planning Panel for the redevelopment of four city blocks at the eastern end of the Newcastle City Centre between the Hunter Street Mall and the Christ Church Cathedral, Newcastle ('the subject site'). The land was then held by the combined GPT/Urban Growth. That Concept Proposal granted consent for a mixed use development comprising retail, commercial and residential uses with an indicative total gross floor area (GFA) of 55,400m² including 7600m² retail/commercial GFA and 565 apartments. The Consent granted consent to building envelopes and height, indicative land use mix and floor space allocation, however did not grant consent for any works (which would be sought via later separate development applications for the proposed seven (7) stages of the development).

Proposed Development

The applicant and now owner of the land (Iris Land Pty Ltd) has lodged a Development Application (DA-2017/00701) to replace the above approved Concept Approval, which if approved, will be surrendered. In summary, the key changes from the approved Concept proposal and the new lodged Staged Concept DA are as follows:

- Alterations to the setbacks to the building envelopes (2 to 11 storeys);
- Redistribution of the floor space ratios (FSRs) on the blocks across the site and increase in the gross FSR on the site from 3.33:1 to 3.67:1;
- Increase in overall GFA to 61,000m² (increased from 55,400m²) with 8800m² of retail/commercial GFA (increased from 7600m²);
- Minor decrease in number of apartments from 565 to 563;
- Relocation of above ground car parking to basement levels and increase in on-site car parking;
- Alterations to staging plan from seven (7) to four (4) stages to align with the four street blocks; and
- Reconfiguration of through-site link.

The Concept Proposal still proposes retention and conservation of some heritage buildings and public domain improvements.

Referral to Joint Regional Planning Panel

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'regional development' of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposal is listed within Schedule 4A of the *Environmental Planning and Assessment Act 1979*, being general development over \$20 million.

Permissibility

The applicable planning instrument is *Newcastle Local Environmental Plan 2012* (NLEP 2012) under which the subject site is zoned B4 Mixed Use. The proposed uses, which are defined as shop top housing, residential flat buildings and commercial premises, are permissible with consent within the B4 zone. The proposal is not integrated development.

Consultation

In accordance with Clauses 8.00.01 'Public Participation: Notification of Development Applications' and 8.00.04 'Public Participation: Advertised Development' of *Newcastle Development Control Plan (NDCP) 2012*, the application was publicly exhibited in a newspaper notice on 8 July 2017, placed online on Council's webpage, and notified by letter (dated 10 July 2017) to adjoining and nearby properties, with the exhibition period extending from 8 July to 10 August 2017. The development application was exhibited concurrently with the Stage 1 Works DA for Block 1 (DA-2017/00700) which is the subject of a separate assessment report to the JRPP. A total of 11 submissions were received. The main issues raised in the submissions were the inconsistency with the required building envelope (specifically street wall heights and upper level setbacks required by conditions within the approved concept development consent DA-2015/10182 and NDCP 2012), and resultant impacts to view corridors and the heritage qualities of the City Centre. Other impacts including parking, traffic and potential construction impacts were raised.

The application was also referred to Roads and Maritime Services, Heritage Council of NSW, Office of Environment and Heritage, NSW Police, Transgrid, Licensed Premises Reference Group, Hunter Water Corporation and the Local Aboriginal Land Council.

Key Issues

The main issues identified in the assessment and/or raised in the submissions are as follows:

- Heritage conservation;
- Built Form including building height and street wall heights;
- Carparking provision;
- Public Domain Improvements and funding;
- Impact on views.

Recommendation

That the Joint Regional Planning Panel grant consent to DA-2017/701, subject to the conditions contained in Appendix B.

1. Background

Staged Concept Proposal: Approval DA-2015/10182

A concept development application (No. 2015/10182) was lodged by UrbanGrowth NSW land holdings (the former owner of the land, together with GPT) of four city blocks at the eastern end of the Newcastle City Centre between the Hunter Street Mall and the Christ Church Cathedral, Newcastle. The Concept Proposal was approved by the Hunter Joint Regional Planning Panel (JRPP) subject to conditions on 28 April 2016.

The Concept application granted consent for building envelopes and height, indicative land use mix and floor space allocation, however did not comprise any physical works. The Concept approval required separate future development applications within the approved seven (7) stages of the development and in summary comprised:

- A mixed use development comprising retail, commercial and residential uses;
- An indicative GFA of 55,400m² and allocation of FSR;
- Car parking with a capacity for approximately 491 vehicles;
- Vehicular access for car parking from King Street, Perkins Street, Wolf Street, Thorn Street, Laing Street, Morgan Street and Newcomen Street;
- Service vehicular access from Perkins Street, Thorn Street, Laing Street and Morgan Street;
- Building envelopes and heights varying between 2 and 12 storeys;
- Staging of the development;
- Public access, building retention and conservation, infrastructure and construction management strategies.

The report to the JRPP on 28 April 2016 on this Development Application is provided at **Appendix A** (excluding Appendices to that report). The conditions of development consent for DA-2015/10182 (issued 17 June 2016) are not appended to this report as the recommended conditions of consent for this application (**Appendix B**) are similar.

Current DA-2017/00701: New/Revised Concept Development Application

The applicant and now owner of the land (Iris Land Pty Ltd) has lodged a Development Application (DA-2017/00701) to replace the above approved Staged Concept Approval, which if approved, will be surrendered. In summary, the key changes from the approved Staged Concept proposal and the new lodged Staged Concept DA are as follows:

- Alterations to the setbacks to the building envelopes;
- Redistribution of the floor space ratios (FSRs) on the blocks across the site and increase in the gross FSR on the site from 3.33:1 to 3.67:1;
- Relocation of above ground car parking to basement levels;
- Alterations to staging plan from seven (7) to four (4) stages to align with the four street blocks; and
- Reconfiguration of through-site link.

The approved Concept DA (DA-2015/10182) was assessed by TCG Planning. As there have been no major changes to the planning controls for the site, and many features of the new/revised concept application are the same, the previous assessment is still largely relevant to the current revised concept staged DA. It is not necessary to revisit the already-assessed aspects of the revised staged concept application that have not changed. The previous assessment and most conditions of development consent are considered to still be relevant (and/or will require edits/amendments). To avoid duplication, this assessment report is largely limited to matters relating to the proposed changes to the concept DA. Reference to matters with no change are addressed in the previous report to the JRPP meeting of 28 April 2016 (refer **Appendix A**). The appended report should therefore be read in conjunction with this report.

Current Development Application for Stage 1 Works (DA-2017/00700)

The Concept DA that is the subject of this report does not involve any physical works and requires that a separate detailed Development Application for each Stage be submitted. A DA for (the revised) Stage 1 (comprising the city block bounded by Hunter, Perkins, King and Wolfe Streets) was submitted at the same time as this Concept DA that is the subject of this report. The proposed Stage 1 works are consistent with the lodged revised Staged Concept DA (DA-2017/00701). A separate assessment report on the Stage 1 DA has been prepared for consideration by the JRPP. It is noted that most of the changes between the approved concept development application (No. 2015/10182) and the current DA (2017/00700) relate to matters located within Block 1 of the site (Stage 1). Hence some of the planning issues within this report also are addressed in the separate report for Stage 1.

2. Site and Locality Description

The site is located between the Hunter Street Mall and the Christ Church Cathedral, and is bounded by Perkins and Newcomen Streets, as shown in **Figure 1**. The site comprises the majority of the buildings across four (4) city blocks, between Perkins, Hunter, Newcomen and King Streets. The site has a total area of 1.66ha. The site is approximately 280m in length east to west along Hunter Street and approximately 90m in depth along Thorn Street.

The site is highly urbanised in character, with the majority of development built boundary to boundary, with the exception of the south-east corner of the site between Morgan and Newcomen Streets. Existing development comprises a mix of building forms, styles and ages, of varying heights. Typically, development is two (2), three (3) or four (4) storeys in scale across the majority of the site. Existing development across the site comprises 25 buildings with a gross floor area of approximately 23,500m². The 25 buildings contain some 91 tenancies, of which approximately 26 are currently vacant. The buildings have typically been used for a varied range of commercial and retail uses. Land uses within the site include a mix of retail shops and associated parking, cafes and restaurants, medical centres, commercial offices, former theatre (Masonic Hall) and car parks.

Car parking across the site is largely limited to on-street parking with the exception of the former David Jones car park, located on the corner of Perkins and King Streets, which accommodates approximately 404 vehicles. The Council's King Street above ground car park located to the south of the site also contributes to the supply of car parking accommodating 445 vehicles.

The site is located on the southern side of Newcastle Harbour, on the steep north-facing and lower slopes below Cathedral Park. The land has a fall of approximately 21m from a high point at RL 23.47 at the south-eastern corner of Newcomen and King Streets to RL 2.73m at the north-western corner at Hunter and Perkins Streets. The Hunter Street frontage of the site falls gradually from east to west from RL 6.32 at the intersection with Newcomen to RL 2.73 at the intersection with Perkins Street. The southern boundary of the site along King Street falls from east to west from RL 23.47 at Newcomen Street to RL 4.74 at Perkins Street. Newcomen Street on the eastern boundary falls steeply from RL 23.47 at the corner of King Street to RL 2.73 at Hunter Street, whereas the western boundary along Perkins Street has a far more gradual fall of only 2m from RL 4.74 at King Street to RL 2.73 at Hunter Street.

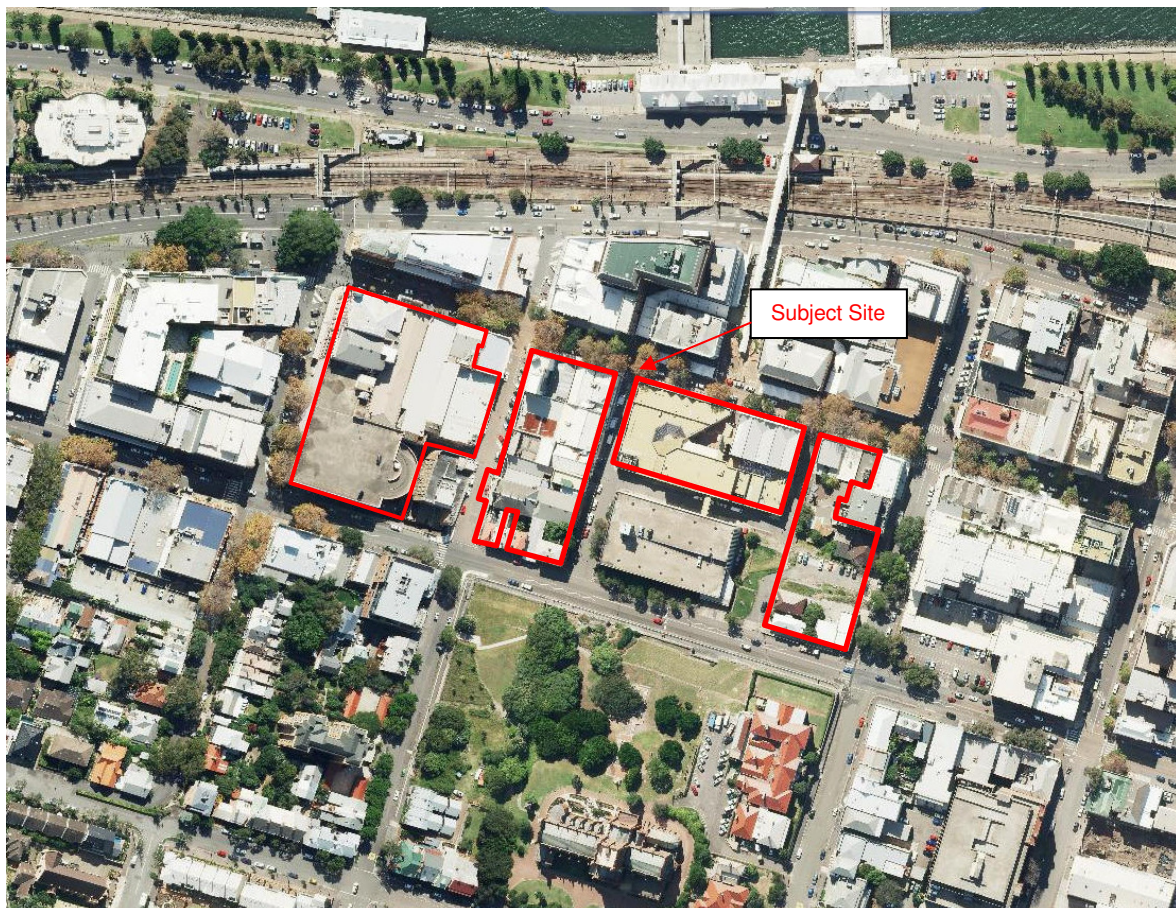
The surrounding land is described as:

- North - development along the northern side of the Hunter Street Mall is a mix of two (2), three (3) and four (4) storey buildings with retail at ground and typically commercial office space above, and includes two (2) heritage buildings at 160 and 170 Hunter Street;
- West - Perkins Street forms the eastern boundary of the site. On the western side of Perkins Street is a mix of commercial development of various scales and building

forms. Uses comprise the Crown and Anchor Hotel, retail shops and offices and the former Victoria Theatre. The streetscape presents a mixture of scale and form.

- South - The southern boundary of the site is King Street. On the opposite side of King Street, between Newcomen and Wolfe Streets, is Cathedral Park, the Christ Church Cathedral and the Newcastle Club. The presentation to King Street at this point is dominated by an elevated footpath, large sandstone retaining walls and steeply rising topography. The Cathedral Park and the Cathedral locations enjoy views north towards the harbour over the site.
- East - Newcomen Street forms the eastern boundary of the site and falls steeply from King Street toward the Harbour. Street trees within the road carriageway provide a leafy character to the upper part of the street. Otherwise Newcomen Street is dominated by the seven (7) and eight (8) storey multi-unit residential development on the western side of the street. The at-grade car park of the Newcastle Newspaper site is located on the east side at the corner of King Street. Between Wolfe and Perkins Streets development is a two (2), four (4) and six (6) storey scaled development, which appears to be largely residential in use. Developments east of Newcomen Street and west of Perkins Street along the northern and southern side of King Street vary in scale and form and are typically used for broad commercial uses with some mixed use development on the northern side of King Street.

Figure 1: Aerial photo showing the location of the subject site (*Source: Six Maps*)



3. Project Description

Development Application (No. 2017/00701) seeks consent for a Concept Proposal for the redevelopment of the combined lands holdings of Iris Land Pty Ltd at the eastern end of the Newcastle City Centre between the Hunter Street Mall and the Christ Church Cathedral,

Newcastle. The proposal comprises a 'concept' development' pursuant to Section 83B of the Environmental Planning and Assessment (EP&A) Act 1979 (formerly known as a of a 'staged development application' prior to recent amendments to the Act). Accordingly, subsequent development applications will be lodged for approval of the four (4) stages of the project, which must be in accordance with a development consent issued for the Concept Proposal (as required by Section 83D of the Act).

For the purposes of the Act a 'concept development application' is defined by subclause 83B(1) as:

".....a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.

(2) in the case of a staged development, the application may set out detailed proposals for the first stage of development."

The application therefore comprises less detail than a standard development application, as the Concept Proposal seeks consent only for building envelopes and height, indicative land use mix and floor space allocation, but does not seek consent for any works. Separate development applications for works will be lodged for the four (4) stages of the development for which a separate assessment report will be undertaken.

Key Aspects of the Revised Concept Proposal:

Table 1 summarises the key aspects of the proposed Staged Concept Development. The table also indicates a comparison of the approved Staged Concept application:

Staging:

The concept development application comprises four (4) stages which are shown in **Figure 2**. The areas for each stage relate to whole city blocks, which for the purposes of this report are referenced as Blocks 1-4 to correspond with the proposed staging.

Land Uses

The land use mix is proposed to be altered from that already approved, being slightly reduced commercial and increased retail and residential – largely resulting from previously at-grade parking being located to a basement freeing up additional floor area above ground for these uses (Block 1 and 4 only). The floor areas of residential uses has increased, however the quantum of apartments has only reduced by two, with fewer smaller apartments proposed. Residential uses will be provided across the site and will provide approximately 563 units (noting that the mix/configuration may change at the time of detailed DAs for each stage).

The retail floor space is focussed at ground level of the precinct to achieve street activation, including proposed pedestrian through-block connections. Commercial areas will be largely within the upper levels of 121 Hunter Street, the Masonic Complex and 98 King Street. As a broad land use definition, flexibility may be sought at the time of detailed DAs for each stage. While not specifically proposed at the concept stage, each future DA may propose entertainment uses.

Building Envelopes, Heights and Massing

There are some changes to the building heights (between 2 and 11 storeys) and street wall heights, in particular to Block 1/Stage 1. This is the main change and is discussed in detail later in this report.

Table 1: Overview Comparison of Approved Stage DA and Current Staged DA (Source: SJB Planning)		
Element	Approved Staged DA (DA2015/10182)	Current Staged DA
Indicative Gross Floor Area	55,400m ² (approx.)	61,000m ² (approx.)
Land use Gross Floor Area	4,900m ² retail premises (approx.) 2,700m ² commercial premises (approx.) 47,800m ² residential uses (approx. 565 apartments)	7,300m ² retail premises (approx.) 1,500m ² commercial premises (approx.) 52,200m ² residential uses (approx. 563 apartments)
Gross Floor Area allocation across Blocks	Block 1: 21,294m ² Block 2: 11,490m ² Block 3: 11,034m ² Block 4: 11,496m ²	Block 1: 26,200m ² ** Block 2: 11,709m ² Block 3: 11,034m ² Block 4: 12,163m ² ** Block 1 GFA based on Plans for Stage 1 DA-2017/700 (which exceeds SEE reference of 26,092m ² for Stage 1 by 108m ²). Adjustments to FSR of future stages may therefore be required
Floor Space Ratio (gross)	3:33:1	3.67:1 (due to relocation of at grade parking to basement)
Floor Space Ratio Allocation across Blocks	Block 1: 3.2:1 Block 2: 3.2:1 Block 3: 3.3:1 Block 4: 3.8:1	Block 1: 4:1 Block 2: 3.2:1- No Change Block 3: 3.3:1- No Change Block 4: 4:1
Building Height	2-12 Storeys Maximum RL 42.0	2-11 Storeys No Change RL 42.0
Dwellings	565	563
Car Parking	491 Spaces	549 spaces
Car Parking	Block 1: 233 Block 2: 76 Block 3: 88 Block 4: 94	Block 1: 273 Block 2: 76 Block 3: 88 Block 4: 112
Staging	7 stages	4 Stages

Figure 2: Indicative Staging Plan (Excerpt from Drawing No. DA-2903, SJB Architects, 15/5/17)



Car Parking and Servicing

Parking capacity across the site has increased from 491 to 549 spaces. This is largely due to the location of basement parking on Blocks 1 and 4 instead of the previously approved at grade parking. Five car parks are now proposed (reduced from previously-approved 6), however these will be subject to detailed design at future DAs for each stage. Servicing locations are largely the same as previously approved, with the main change being a consolidated vehicle and servicing access for Block 1/Stage 1 to enable a larger pedestrian-only block linkage at Block 1 between Perkins and Wolfe Streets. Similar parking allocation arrangements to that of the approved Staged Concept DA (for residential/commercial/retail and staff) are proposed to be implemented. This is a complex arrangement and is discussed later in this report.

Heritage Conservation

This DA proposes no change to the Building Conservation and Retention Strategy submitted for the previously-approved concept DA (refer **Appendix D**). Specific works (including demolition of buildings not listed below) to be included in future DAs.

The following buildings are proposed to be retained for adaptive reuse:

- The original north-western portion of the former David Jones' store;
- The Municipal Building (121 Hunter Street);
- The former Lyrique Theatre/Masonic Hall 98 King Street (Wolfe Street); and
- The terrace houses at 104, 108 and 110 King Street.

The following buildings are proposed for conservation of the facade and investigation into the potential for adaptive reuse:

- The former Duke of Kent Hotel, (153 Hunter Street); and
- 105 Hunter Street.

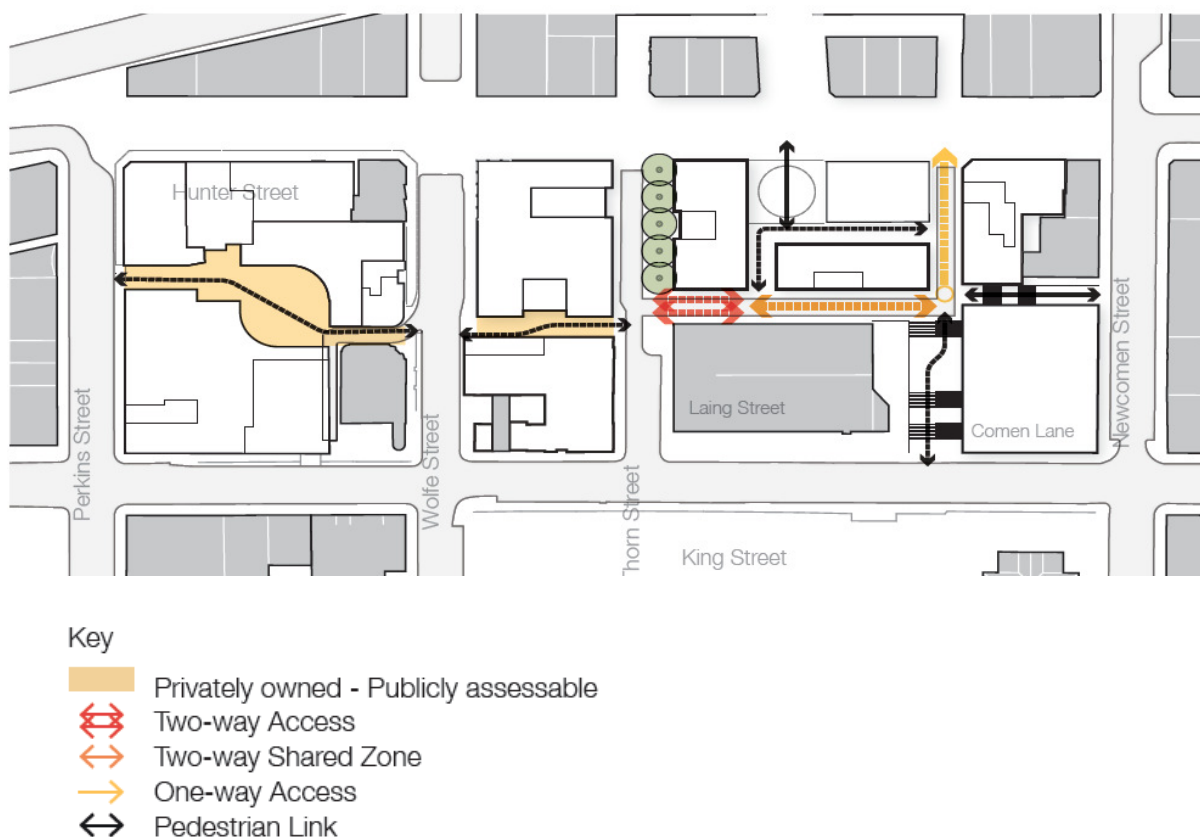
The retention of the facade of the following buildings, with new vertical additions for residential use:

- The later additions to the former David Jones' store fronting Hunter Street;
- The section of the former David Jones' store fronting Wolfe Street;
- No. 163-167 Hunter Street; and
- The Soul Pattinson building (151 Hunter Street).

Public Domain Concept

The Concept Proposal includes an 'Indicative Public Domain Strategy' (prepared by Aspect Studios) that provides for public access across and within the site via a network of smaller squares, routes and spaces, and internal public road reserves within and immediately adjacent to the block network comprising the development site. The Concept Proposal also includes the dedication of land to allow for the creation of a new Market Square between Hunter Street and Laing Street, which will be a privately owned and publically accessible open space. The key features of the movement/circulation concept are shown in **Figure 3**. The main change from the approved concept DA is the link between Perkins and Wolfe Street being pedestrian only (formerly a shared way to allow for service vehicles, no longer proposed).

Figure 3: Movement and Circulation Plan (Ref: SJB Architects)



Appendix C: Provides a complete list of the documents submitted with the application for assessment.

The key plans/documents of the proposed concept development are provided at **Appendix D to K**, listed below:

Appendix D: Concept Proposals, including overall site Concept Proposal, indicative floor plans, building envelope elevations, sections, public access plan, staging plan and FSR Plan (SJB Architects)

Appendix E: Building Conservation and Retention Plan (TKD Architects)

Appendix F: Massing Diagrams (SJB Architects)

Appendix G: Indicative Public Domain Strategy (ASPECT)

Appendix H: indicative Photomontages

Appendix I: Comparative Building Height Diagram

Appendix J: Comparative Street Wall Height Diagram

Appendix K: Clause 4.6 - Variation to Height of Buildings

4. Consultation

The application was publicly exhibited in a newspaper notice on 8 July 2017, placed online on Council's webpage, and notified by letter (dated 10 July 2017) to adjoining and nearby properties, with the exhibition period extending from 8 July to 10 August 2017. The development application was exhibited concurrently with the Stage 1 Works DA for Block 1 (DA-2017/00700). A total of 15 submissions were received and it is apparent that there was some confusion from some who made a submission on the scope and role of each DA. The matters relevant to this revised Concept DA are addressed in this report. Matters relevant to the Stage 1 works DA (DA-2017/00700), such as impacts from construction works, impacts

of building materials on Port navigation aids etc) are addressed in the separate report relating to the Stage 1 DA. All matters raised in all submissions are summarised below.

Important Undertakings Given to Community Proposed to be Ignored

The former Program Director of UrbanGrowth NSW confirmed to Newcastle Inner City Residents Alliance in writing in 2016 that the future owners of the Newcastle East End site (then for sale) must adhere to the 2016 JRPP rulings, as also documented in the Expression of Interest documentation. The building envelope and upper level setbacks required by the approval are being ignored in the revised Staged Concept DA and Staged DA.

Building A (cnr Perkins & King Street) should conform to JRPP's building envelope controls

Condition 12 of the Development Consent for the Staged Concept DA (imposed by the JRPP) required "*where the building envelope exceeds the maximum street wall height identified in the NDCP 2012, then the section of the building above that height shall be set back in accordance with the DCP being 6 metres.*" The NDCP 2012 street wall height is 22m and the proposed Building A exceeds this and has no setback. The controls are designed to reduce overshadowing of King Street apartments and have/respect a similar street wall height to heritage buildings opposite. Without the podium setbacks the tower will:

- have a cliff-like facade;
- contribute significantly to the visual bulk of the building;
- will be adverse to the traditional character and visual appearance of the area, especially King Street;
- restrict or impede views of existing residents of the Hill;
- the human scale of the surrounding architecture will be dwarfed.

The applicant's stated reasons for this (including opening up of laneway and providing more light and circulation to future tower residents), insufficient weight has been given to important heritage considerations.

Building D (Wolfe Street) should conform to upper level setback required by JRPP

Condition 13 of the Development Consent for the Staged Concept DA (imposed by the JRPP) required "*where the building envelope is above a retained heritage facade, then it shall be set back in accordance with Newcastle DCP 2012 being 6 metres.*" This was to avoid the worst aspects of "facadism". This should occur for this building (as it has been with Building C fronting Hunter Street and successful treatments such as the Westin Hotel/GPO Sydney) so that the elegant art deco facade can be respected and enhanced.

View Corridors Impacted

The JRPP-imposed upper level setback to Wolfe Street was also designed to retain significant public vistas of Christ Church Cathedral and significant vistas down Wolfe Street to Newcastle Harbour. The proposed built-to-street alignment of Building D will narrow these vistas. However, it will open up vistas to the some future residents of proposed Building A which is considered to put self-interest above public interest.

Parking Deficiency of 30 Spaces

The Justification/assessment:

- requires the current well-utilised Council all day car park to be restricted and "discouraged". The applicant has no certainty with regard to ongoing access to parking spaces within the King Street car park.
- makes no account for the dramatic impact of the planned light rail route along Hunter Street which will result in a loss of 280 car parking spaces.
- makes no account for several residential development in surrounding areas with potential on-street parking demands.

The inevitable and significant parking overflow will impact on parking amenity for surrounding residents and businesses.

Range of Amenity Impacts

Heritage impact statement does not address amenity, social or wellbeing impacts of overdevelopment. Lack of consideration of increased overshadowing, wind impacts from taller buildings, lack of view of horizon, shading (No. 34 Perkins St) increased pollution from increased traffic, air-conditioning units etc, security, odour, privacy. Unique nature of city will change to cold and overbearing.

Overshadowing, loss of light, and Privacy impacts of Building A on 209 Hunter Street (Acculon Apartments pool) and overlooking. Should be 7 storeys like the Acculon building.

Negative Impact on Property Values

Impact on harbour views, will be an eye-sore, intrusive height.

Inconsistent with Scale, Aesthetics and Character of Area

The development is not aesthetically compatible with surrounds and is in stark contrast to existing charm and appeal of the area with historical buildings.

Will be an ugly monstrosity and Council should be looking to develop this area in an aesthetically pleasing way.

Buildings 5-8 storeys are more acceptable for a human scale.

Building Height: Block 1 should have a Height Limit of RL 30m

The height limitations for Block 1 should be the same as the other Newcastle East End blocks as views are impeded. Given the recent property value increases in Newcastle, the developer should review the financial feasibility model since Newcastle East process commenced. This increase could enable reduction in building height of Block 1 buildings without jeopardising the feasibility of the development.

Building height is excessive when compared to intent of NLEP 2012 (Objectives of Clause 7.9 Height of Buildings).

No demonstrated need for height limits to be exceeded.

The development will dominate the skyline and there will be a domino effect with developers seeking increased heights elsewhere.

Clause 4.6 Variation is not adequately justified and is not clear why a complying development would result in a 'poorer urban design to the overall site and the area generally'.

Traffic Impacts

Building A alone (108 apartments) will create traffic jams in already congested roads, including King Street and will force traffic to heritage areas and up hills.

The Traffic Impact Statement provides insufficient detail, relies on previous studies, does not provide current traffic volumes and the suitability of King Street to be able to provide adequate traffic speeds to avoid traffic jams.

Social Impacts

SIS does not adequately address negative social impacts from amenity loss from over development and there has been limited (if any) community consultation prior to submission.

Housing Type Inconsistent with 'Draft Plan for Growing Hunter City'

Action 2.2.2 'Support small-scale housing growth within Inner Newcastle neighbourhoods'

Parking During Construction:

Parking in the area is already in demand and Building A should be developed last within Block 1 and the existing Perkins Street carpark (which has capacity for 389 cars) should be retained for construction workers. If construction is stalled (as has occurred on other sites in the City), then there would be parking retained and less long term holes in the ground.

Structural Engineers Building Report Should be Prepared

NCC should insist on the proponent undertaking a dilapidation report and structural engineering reports on heritage buildings within a radius of 500 metres from the construction zone (including six storey National Estate listed 'Segenhoe' at 50 Wolfe Street). This will assist in ensuring resultant damage from long term hammering etc can be rectified without protracted and expensive legal battles.

Construction Phase and Footing of Corner of King and Perkins Streets

Site of former mine workings and it is not known if these have been back filled. Should be addressed, including footing of proposed Building A.

5. Referrals

Approval Authorities- Integrated Development

The staged development is not identified as 'Integrated Development' pursuant to Section 91 of the EPA Act 1979 as discussed in the assessment report to the JRPP for the approved Staged Concept DA 2015/10182 (April 2016, refer **Appendix A**).

The following provides a summary of the external referrals which were forwarded for the staged development application.

Table 2: Summary of External Referrals	
Agency	Response
NSW Office of Environment and Heritage/NSW Heritage Council No Statutory approval role OEH Expertise: European Heritage, Aboriginal Cultural Heritage	No response has been received from OEH. However verbal discussions have been held with officers which indicated that OEH has no statutory role and raised no objections to the proposal.
Roads and Maritime Services SEPP (Infrastructure) 2007 Clause 104 Referral under SEPP (Infrastructure) 2007	<i>Roads and Maritime response: Roads and Maritime has reviewed the information provided and raise no objection to or requirements for the proposed (development).</i> <u>Advice to Council</u> <i>Roads and Maritime recommends that the following matters should be considered by Council in determining this development:</i> <ul style="list-style-type: none">• Roads and Maritime has no proposal that requires any part of the property.• Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.• Council should have consideration for appropriate sight line distances in accordance with the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.• Council should ensure that the applicant is aware of the potential for road traffic noise to impact on development on the site. In this regard, the developer, not Roads and Maritime, is responsible for providing noise attenuation measures in accordance with the NSW Road Noise Policy 2011, prepared by the department previously known as the Department of Environment, Climate Change and Water. <i>If the external noise criteria cannot feasibly or reasonably be met, Roads and</i>

Table 2: Summary of External Referrals	
Agency	Response
	<i>Maritime recommends that Council apply internal noise objectives for all habitable rooms with windows that comply with the Building Code of Australia.</i>
Police and Licensed Premises Reference Group (LPRG) No statutory approval role	<p>No response from Police. However a Police representative was in attendance at the LPRG who recommended:</p> <ul style="list-style-type: none"> Land use mix will include retail across ground floor of all 4 buildings (gross floor area 3,629m²). Some of the retail will have a food and beverage focus. Notes that consent for fitout and future uses will be subject to future DA's as required. Police condition for this DA - approve with 7pm closing for commercial elements. If future DAs require liquor licences, can add conditions then. Discussion noted need for better quality acoustic treatments within buildings. Police keen to see 'window approvals' to reduce noise complaints. New residents at Market town development are already making complaints about nearby noise eg King St Hotel. Acoustic Report required.
Ausgrid - No statutory approval role	<p>Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid's infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.</p> <p>All alterations/augmentation to Ausgrid's assets will be carried out as contestable works. The contestable works will be channelled through Ausgrid's Hunter Contestable Connections Group.</p> <p>Ausgrid has significant strategic infrastructure including mains and substations located within the redevelopment area. It is important that the staging and redevelopment of the area carefully consider and allow for the following.</p> <ol style="list-style-type: none"> 1. The impact of development activities to Ausgrid's operational assets and customers, including maintenance of safe access for Ausgrid staff, safety clearances and maintenance of supply to customers . 2. Development and review of realistic final maximum demands. 3. Staged plans for substation and triplex feeder decommissioning and new substation establishment. 4. Selection and possible rationalisation of final substation sites and cable routes. 5. Staging of any temporary electrical supplies, including temporary substations if necessary . 6. Temporary and final streetlighting arrangements. 7. Integration/impact with other infrastructure projects and 3rd party developments (e.g. Newcastle Light Rail). <p>Ausgrid's strong recommendation is that the Developer's electrical professional engage with Ausgrid to collaboratively develop an electrical masterplan which sets out a staged approach to achieve the above requirements for the development as a whole. Given the sensitive and heritage nature of the project, utility infrastructure complexities and limited opportunities for substation sites, it is envisaged that an innovative approach requiring development of non-standard solutions may be needed in some cases.</p>
Hunter Water - No statutory approval role	No formal response received. Indicated by email that HW have issued a Notice of Requirements to the applicant and requested a standard condition be imposed requiring a Section 50 Certificate.
Local Aboriginal Land Council - No statutory approval role	No response received

Internal Referrals – Newcastle City Council Officers

The application documents were referred to the list of specialist officers below, who responded as follows.

Senior Environment Protection Officer (Planning and Regulatory), dated 4.7.17

Issues: Contamination, Acid Sulfate Soils and Noise.

No alteration to comments provided for previous approved Staged Concept DA. In summary, the submission of further contamination investigation and/or remediation plans, acid sulphate soil management plan (if required) and acoustic assessments are to be undertaken as part of each stage of the proposed development and submitted with future applications. Conditions provided.

Contract Development Officer (Engineering) dated 9.8.17

Noted concept only and details to be provided within future DAs for each stage. Issues addressed:

- *Vehicular access, driveway design and crossing location* (satisfactory)
- *Traffic Generation* (traffic study volumes concurred with)
- *Parking Demand* (proposed parking supply complies with Council's original concept approval requirement)
- *Flood Management* (minimum floor level and basement access remains at RL 2.6 metres AHD).
- *Stormwater Management* (satisfactory)
- Summary and Recommendation:

"As a concept approval I believe the proposal can be supported on the basis that an amended/revised traffic impact assessment, a basic flood impact / overland flow assessment and detailed stormwater management plans be submitted with each development application for the relevant stages. In providing this documentation the applicant should be advised as follows;

- *The proposed site accesses seem to be satisfactorily located with good separation from intersections. Construction types, widths and pedestrian and vehicular sight lines would still need to be reviewed at the future DA stage for the construction of each when detailed plans are available.*
- *Traffic data and road network assessment should be reviewed at each DA stage to account for any road network changes affecting the capacity of the road network. E.g. Newcastle Light Rail Project.*
- *Each of the proposed stages / blocks as a minimum need to provide all residential tenant parking, all commercial staff parking (50 % of total requirement), all retail staff parking (50 % of total requirement) and 25 % of visitor car parking on-site.*
- *Waste servicing of all blocks within stages 1 to 4 should be undertaken on-site as new buildings are proposed.*
- *The minimum floor level for the ground level of the development should be RL 2.6 metres AHD. Similarly vehicular access to any basement parking areas should also be at or above RL 2.6 m AHD."*

Senior Public Domain Planner emails 23.6.2017 and 24.11.2017

Comments provided mostly relevant to the Stage 1 DA. There is a Draft East End Stage One - Public Domain Plan (not yet publicly exhibited) and there may be opportunity to update the applicant's final landscape plans to coordinate with the Council's Plans including to reflect the new road layout.

Heritage Issues: by Manager Development and Building dated 24.11.2017

Provides comment on key changes to the concept plans (some discussed later in this report) and concludes *"overall, no objections are raised to the amended concept plan as proposed*

and it is considered that the changes are likely to have minimal adverse impact upon the cultural heritage significance of the identified items, including those encompassing the development, on adjoining lands, and within the Conservation area generally."

Strategic Planning, Social Planner, Commercial Property Officer, Strategic Recreation Planner (Facilities and Recreation: Infrastructure), Infrastructure Management

No Response

Urban Design Consultative Group

The Urban Design Consultative Group (UDCG) considered the Stage 1 DA only (applicable to Block 1) at its meeting of 27 September 2017. There are no changes to the other Blocks (2-4) from the previously considered approved Concept DA. The comments of the UDCG are provided in the assessment report for the Stage 1 DA-2017/ 00700 with respect to Block 1, including street wall heights.

6. Section 79C Considerations

The approved Concept DA (DA-2015/10182) was assessed by TCG Planning and there have been no major changes to the planning controls for the site and the previous assessment is still largely relevant to the current revised concept staged DA. It is not necessary to revisit the already-assessed aspects of the revised staged concept application that have not changed. The previous assessment and most conditions of development consent are considered to still be relevant (and/or will require edits/amendments as per **Attachment B**). To avoid duplication, this assessment report is largely limited to matters relating to the proposed changes to the concept DA as compared to the approved Staged Concept plan (DA-2015/10182). Reference to matters with no change are addressed in the previous report to the JRPP meeting of 28 April 2016 (refer **Appendix A**).

(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

- Draft NLEP 2012 Amendment 26 - discussed later in report (NLEP 2012 Clause 4.3 Height of Buildings)
- Draft SEPPs: A number of draft State Environmental Planning Policies have recently been exhibited and are under consideration by the Department of Planning and Environment however are not relevant to the application, with the exception of the draft Coastal Management SEPP (refer over).

(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy (State and Regional Development) 2011

The development 'regional development' of in accordance with Part 4 of the SEPP (State and Regional Development) 2011, as the proposal is listed within Schedule 4A of the *Environmental Planning and Assessment Act 1979*, being general development over \$20 million. An Indicative Cost report (Altus Group) submitted with the application indicates the development value to be \$211,775,587. Clause 22 of this SEPP also requires the future stages of the proposal to be determined by the JRPP.

State Environmental Planning Policy (Urban Renewal) 2010

Refer to Background on this SEPP in Section 6(a) of the previous report to the JRPP meeting of 28 April 2016 (refer **Appendix A**). In summary, State Environmental Planning Policy (Urban Renewal) 2010 was introduced on 15 December 2010 to identify urban renewal precincts and to facilitate the orderly development of sites in and around such precincts in line with applicable state, regional or metropolitan strategies. The Newcastle Urban Renewal Strategy was subsequently prepared (and updated in 2014) to provide a framework and an implementation plan to support growth of Newcastle over a 25 year period. The Concept Proposal incorporates a mix of retail and residential development

which meets the desired outcomes of the Newcastle Urban Renewal Strategy (NURS), with ground level retail spaces allowing for boutique retail and activation at street level and upper level residential increasing the population base to support local business. It is considered that the Concept Proposal accords with the framework of the strategy, subject to implementation of a process to ensure provision of public domain improvement, as recommended by the strategy. The following sections of this report also address compliance of the proposal with the more detailed planning provisions which reflect the strategy recommendations and which are now contained in Newcastle LEP 2012 and Newcastle DCP 2012.

State Environmental Planning Policy (Infrastructure) 2007

Division 17 'Roads and Traffic' Subdivision 2 (Development in or adjacent to road corridors and road reservations) of the SEPP is applicable. Clause 104 requires development specified in Column 1 of the Table to Schedule 3 (Traffic generating development to be referred to the RMS). The proposed development will contain approximately 563 dwellings and retails GFA of 7,300m² and will exceed the referral criteria of 300 dwellings and retail GFA of 4,000m² with access to any road. Therefore referral to the RMS is required and was undertaken, with the advice obtained discussed in a later section of this report [Section 79C(1)(b)]. The provisions of the Infrastructure SEPP are met, or can be met via appropriate conditions of development consent.

State Environmental Planning Policy 55 - Remediation of Land

Refer to detailed information regarding this SEPP in Section 6(a) of the previous report to the JRPP meeting of 28 April 2016 (refer **Appendix A**). A 'Report on Preliminary Site Investigation (Contamination)' prepared by Douglas Partners in October 2015 and submitted in conjunction with the original Concept Proposal. Supplementary correspondence from Douglas Partners has been lodged with the previously submitted 2015 report.

Council's Senior Environment Protection Officer was/is also satisfied that the proposed development site can be made suitable in accordance with the objectives of section 5.02 of the Newcastle Development Control Plan 2012, subject to the submission of further contamination and/remediation plans. Accordingly the previous Concept Proposal was approved subject to conditions being imposed requiring the submission of further contamination investigation and/or remediation plans which are to be undertaken as part of each stage of the proposed development and submitted with future applications. The recommendations contained within the Preliminary Site Investigation also formed the basis of conditions of consent of the approved Concept Proposal. Subject to the similar recommendations and conditions being implemented, it is considered that the provisions of SEPP 55 are satisfied. Imposition of similar conditions of development consent can be imposed for the current revised Staged Concept DA.

State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

The proposal includes the development of one residential flat building (Block 4) and eight buildings which are defined as shop top housing (all four blocks), to which the provisions of SEPP 65 apply. As the application pertains to a Concept Proposal, the application of the SEPP is limited, however it will apply to the future detailed development applications for each of the buildings.

In order to ensure that the Concept Proposal has been prepared having regard to the principles of SEPP 65 and the Apartment Design Guide, the application is accompanied by a 'Design and SEPP 65 Report' prepared by SJB Architects. This report contains a site and context analysis, identifies the design principles of the Concept Proposal, provides a scheme analysis and confirms the manner in which detailed design for each stage will comply with the Design Criteria and Design Guidance of the Apartment Design Guide (ADG) including

the key matters of communal and public open space, visual privacy (building separation), solar and daylight access, natural ventilation etc.

A comparative review of the same document submitted with the approved Staged Concept Scheme indicated few and minimal changes to the scheme (with the main changes being to Block 1/Stage 1). In summary, it is considered that the proposed Concept Proposal is generally consistent with the design quality principles within the SEPP, subject to the lodgement of detailed design documentation in conjunction with the development application(s) for future stages.

State Environmental Planning Policy 71 - Coastal Protection

Clause 1.9 (2A) of Newcastle LEP 2012 confirms that SEPP 71 – Coastal Protection does not apply to land within the Newcastle City Centre, in which the subject site is located. However, the subject lands are wholly affected by the Draft Coastal Management SEPP. The Draft SEPP is intended to replace the current SEPP 71 and has been publicly exhibited. The draft SEPP proposes to divide the NSW Coastal Zone under the Coastal Management Act 2016 into four (4) coastal management areas. The subject lands are proposed to be located within the 'Coastal Use Area' and the 'Coastal Environmental Area' as illustrated on the Draft SEPP maps. Clauses 14 and 15 considerations apply to the development, however as the subject development is located within a well-established densely urban setting, there are no likely impacts to this environment, especially with regards to maintaining public access, views and amenity. It is therefore considered that the proposal is not inconsistent with the Draft NSW Coastal Management SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The Concept Proposal does not include detailed design or floorplans of residential dwellings as approval is sought only for three dimensional building envelopes and land uses. However, the provisions of this SEPP will apply to the detailed future development applications for each of the stages which incorporate residential accommodation. BASIX Certificates will be required to accompany each application to demonstrate the list of commitments proposed to achieve appropriate building sustainability.

Newcastle Local Environmental Plan 2012

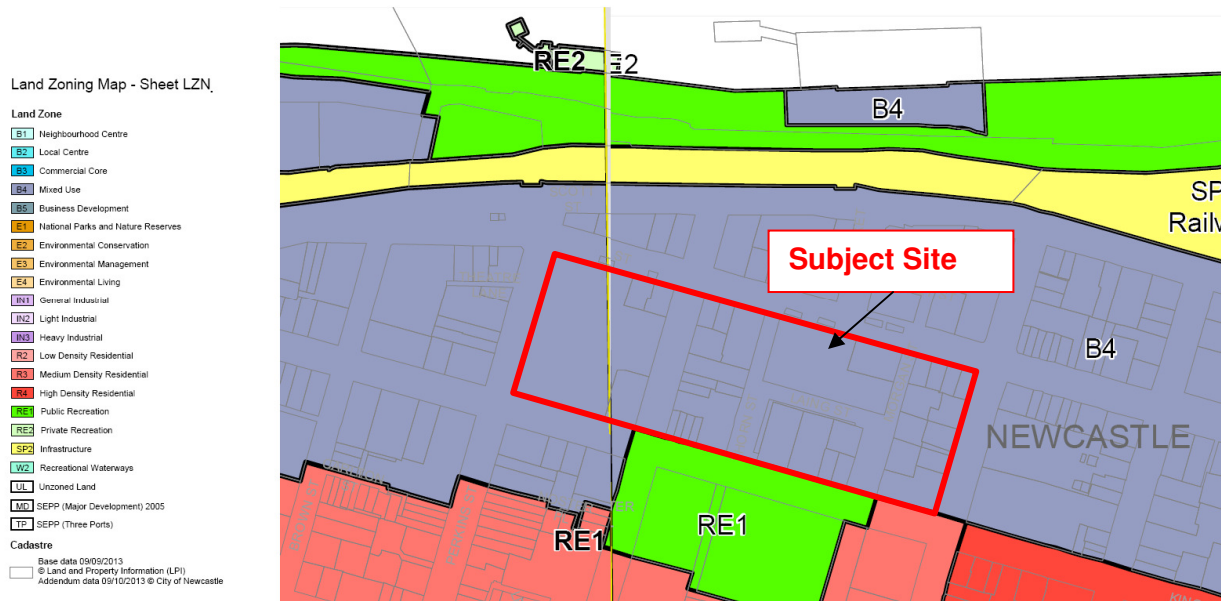
Clauses 2.1 to 2.3: Zoning and Land Use Table

The subject property is included within the B4 Mixed Use zone under the provisions of the *Newcastle Local Environmental Plan (NLEP) 2012*, as shown in **Figure 5**. The objectives of the B4 zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.*

The Concept Proposal accords with the zone objectives as it will provide a range of compatible commercial and residential landuses in a highly accessible location, which will support the revitalisation of the Newcastle City Centre. Further discussion regarding the proportion of retail/commercial office space and the absence of entertainment uses is contained in the Section 79C(1)(b) assessment of this report.

Figure 4: Extract of Zone Map showing location of site in B4 Mixed Use Zone - NLEP 2012



The Concept Proposal seeks approval for building envelopes and height, indicative land use mix and floor space allocation for the following types of development, as defined by NLEP 2012:

Block 1: 'Shop top housing' (basement parking, ground level retail, with upper level residential and parking);

Block 2: 'Commercial premises' (ground and upper level commercial) and 'dwelling house' (existing terraces); and 'Shop top housing' (basement and ground level parking, ground level retail, with upper level residential);

Block 3: 'Shop top housing' (Basement parking, ground level retail, with upper level residential); and 'Commercial Premises' (ground level retail with upper level commercial);

Block 4: 'Shop top housing' (Basement parking, ground level retail, with upper level residential); and 'Residential flat building' (ground level parking, with upper level residential/parking);

Commercial premises and shop top housing are listed as uses which are permitted with consent within the B4 Mixed Use zone of NLEP 2012. Residential flat buildings are also permitted in the B4 zone, being identified as a use which is "not specified in item 2 or 4" and therefore permissible with consent. Dwelling houses are listed as a prohibited use within the B4 zone. However, the dwelling houses are limited to three (3) terraces on King Street, which benefit from existing use rights and which are proposed to be retained.

Clause 2.7: Demolition

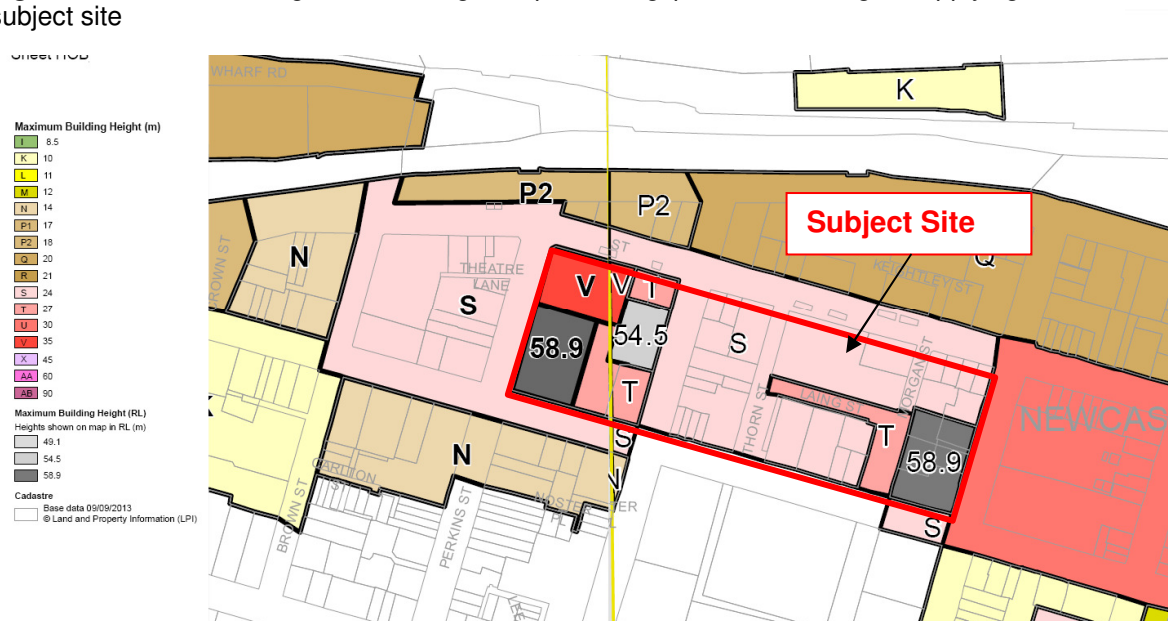
Not applicable: whilst the Concept Proposal identifies buildings to be demolished it does not seek approval for any works and therefore demolition of buildings will be the subject of future development applications for the stages of development.

Clause 4.3: Height of Buildings

This clause limits buildings heights to that shown on the 'Height of Buildings' Map. The 'Height of Buildings' Map specifies permissible building heights ranging from 24m to 27m across the site, 35m for the former David Jones building and up to RL54.5m on land in Wolfe

Street and RL58.9m for land at the corner of King Street and Perkins Street and at the corner of King and Newcomen Streets (refer **Figure 5**).

Figure 5: Extract of Height of Buildings Map showing permissible heights applying to the subject site



Accordingly, the proposed heights have been considered in accordance with the height controls which currently apply to the subject site under NLEP 2012. However, consideration has been given to a current Planning Proposal, which seeks to reduce the height controls applying to this site under NLEP 2012 (refer to later section of this report).

Documentation submitted with the development application confirms that, with the exception of three (3) buildings (located within Blocks 1, 2 and 3), the proposed buildings comply with the Height of Building Map of NLEP 2012. Variation is therefore sought for the height of buildings within Block 1 (former DJs building east), Block 2 (147-153 Hunter St) and Block 3 (Market Square). The following table confirms the heights and extent of variation when measured against the Height of Buildings Map contained in NLEP 2012.

It is noted that the matter of building heights (including some non-compliances) was considered within the previously approved Staged Concept DA, which proposed the same or similar to that proposed in the current DA, with the exception of the Former DJs Building (east) which is slightly higher than that previously approved (Building C in Block 1). Table 3 below also indicates the building heights approved by the previously approved Staged Concept DA-2015/10182.

Table 3: Comparison of Permitted and Proposed Heights						
Block	Proposed Building	Control	Proposed Height	Compliance	Variation	% Varied
Block 1	A: King and Perkins Street Building	RL58.9m/ 27m	RL40(plant at RL42)	Yes	N/A	N/A
Block 1	B: Former DJ's Building (west)	35m	Existing Building	Yes	N/A	N/A

Table 3: Comparison of Permitted and Proposed Heights						
Block	Proposed Building	Control	Proposed Height	Compliance	Variation	% Varied
Block 1	C: Former DJ's Building (east)	27m/35m	<u>Current Concept:</u> 36.96m (parapet) 38.16m (plant)	<u>Current Concept</u> Yes (for 27m part of site) No - for that part of building within 35m height area	1.96m to 3.16m	5.6% (above 35m height to parapet) 9% (above 35m height to lift overrun)
			<u>Approved Concept:</u> 29.936m/ 36.09m	<u>Approved Concept:</u> No (27m) No (35m)	1.094m to 2.936m	3.13% (above 35m height) 10.8% (above 27m height)
Block 1	D: Wolfe Street	RL54.5	RL40 (Allowance for plant to RL42)	Yes	N/A	N/A
Block 2	147-153 Hunter St	24m	26.078m (No change from approved Concept)	No	0.806m to 2.078m	8.6% (No change from approved Concept)
Block 3	Market Square	24m	26.110 (No change from approved Concept)	No	2.110	8.79% (No change from approved Concept)
Block 4	105-111 Hunter Street	24m	>24m	Yes	N/A	N/A
Block 4	Newcomen and King Street Building	RL58.9	RL40 (allowance for plan to RL42)	Yes	N/A	N/A

The applicant's submitted 'Clause 4.6 Exceptions to Development Standards Report' has been prepared by SJB Planning, seeking a variation to the provisions of clause 4.3 (Height of Buildings) in relation to Block 1, 2, and 3. Given the identical proposed increases to height for the same sites within Block 2 (147-153 Hunter St) and Block 3 (Market Square), and similar proposed increases for Block 1 (former DJ's building east), the document is essentially a re-submission of the original Clause 4.6 Statement for the previous Concept DA. Hence the following is an excerpt from the applicant's Clause 4.6 Statement:

- *"The approach to the allocation of height across the site has involved a reduction and some redistribution of height from the south-eastern and south-western corners of the site, across the site to minimise impacts on public views to and from the Cathedral and mitigate any private view loss and potential overshadowing impacts that may have arisen from a development that maximised the height of building available under the NLEP 2012.*
- *The variations in height are also a response to the sloping topography.*
- *The proposed height variation continues to respect the form and scale of the heritage buildings on site, and results in a better outcome in respect to the siting of the development to heritage items in the vicinity of the site.*

- *These minor variations at particular points provide for some varied height, but do not result in unreasonable amenity impacts. The current proposal provides for a better urban outcome, while at the same time ensuring compatible and appropriate scale relationships to buildings within and adjoining the site.*
- *Essentially the planning framework provides for a variety of building heights within a city centre as opposed to a uniform height. This means that there will be taller buildings juxtapositioned against shorter buildings. This condition is typically seen in the evolution of an urban area over extended periods.*
- *A variety of building scale and height provides interest and diversity to a city. The scale relationships, in some cases, are more abrupt, but these reflect the layer and evolution of building forms within a city.*
- *The proposed scale is also viewed against the backdrop of the Cathedral Hill with streets creating clear boundaries at transition points. The parapet levels of the three (3) taller building elements at RL40 AHD, which are less than the height permitted, are in the order of 18m below the ridge of the Cathedral, which is RL58.65.*
- *From the perspective of the city skyline, the reduction in height of the building envelopes, at the edges of the view cone towards the Cathedral, means any resultant building will sit below the Cathedral, such that the Cathedral maintains its prominence. When considered in the context of an evolving city scale, the buildings envelopes and height proposed are considered appropriate.*
- *A development that strictly complied with the standard would result in significantly more height at the corners of the site, potentially resulting in greater impacts on view corridors and potential overshadowing".*

The following additional responses are provided as compared to the originally-submitted Clause 4.6 Statement:

- *The specific breaches on Block 1 have arisen as part of the evolution of the design through a design excellence framework that has carefully placed the new building form in such a way as to compliment and be sympathetic to the streetscape and heritage fabric of the retained and former David Jones building and retained street facade. It has arisen in response to the principle of minimising intervention to the important heritage fabric of the former David Jones and as a means of accommodating plant for this building.*
- *The non-compliances on Blocks 1, 2 and 3 results in built form that better responds to the heritage fabric and streetscape context.*

The extent of variation which is proposed and the potential visual impact is shown in **Figures 6 to 10** (as extracted from the applicant's 'Clause 4.6 Exceptions to Development Standards Report').

Figure 6: Height Variation to Block 1- Northern Elevation (Source: SJB Architects)

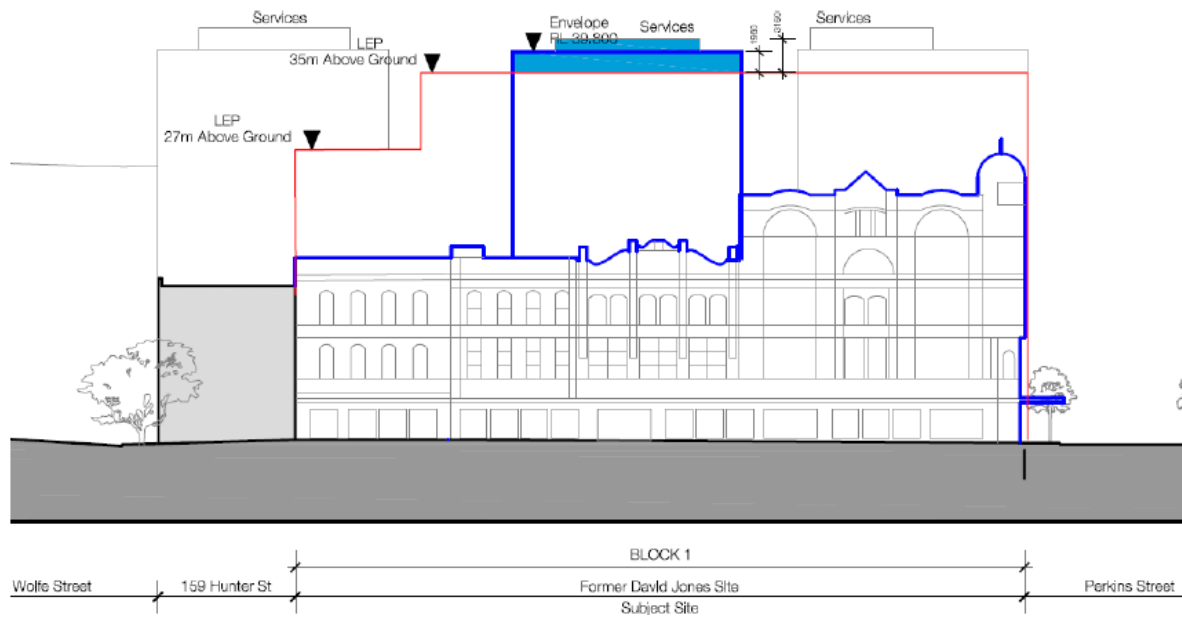


Figure 7: Variation to Blocks 2, 3 and 4, Northern Elevation (Source: SJB Architects)

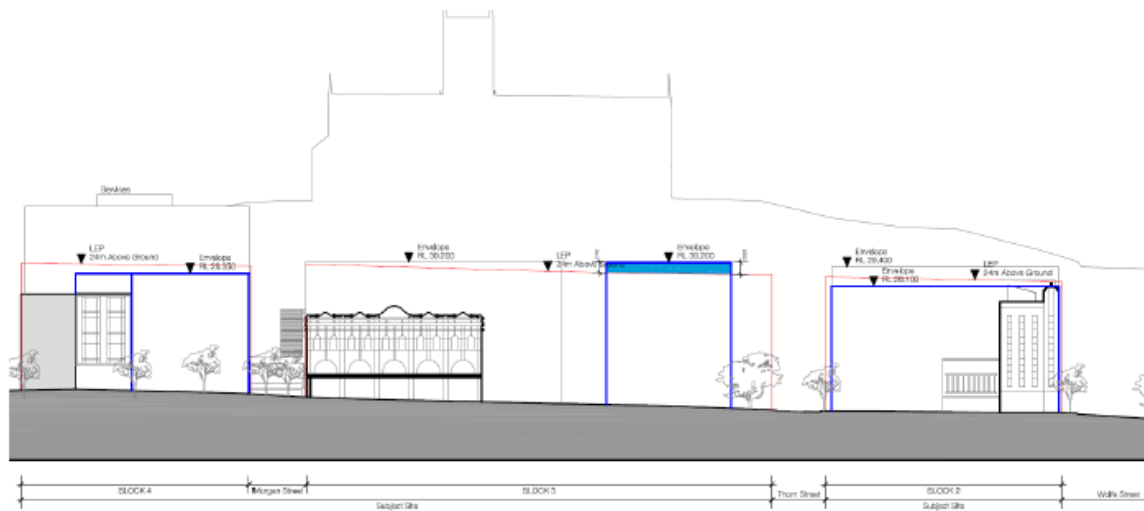


Figure 8: Height variation to Block 2 West elevation (Source: SJB Architects)

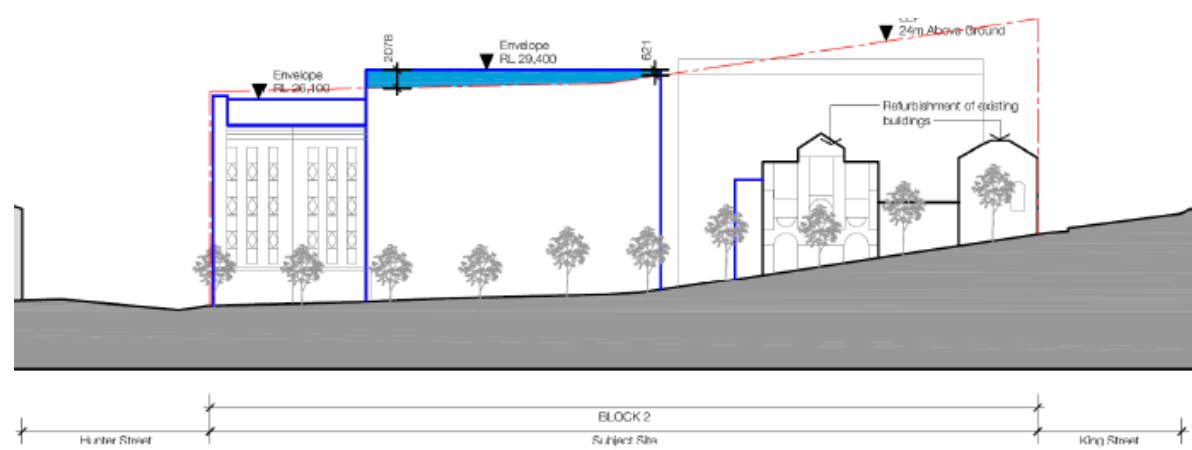


Figure 9: Height variation to Block 2 (Source: SJB Architects)

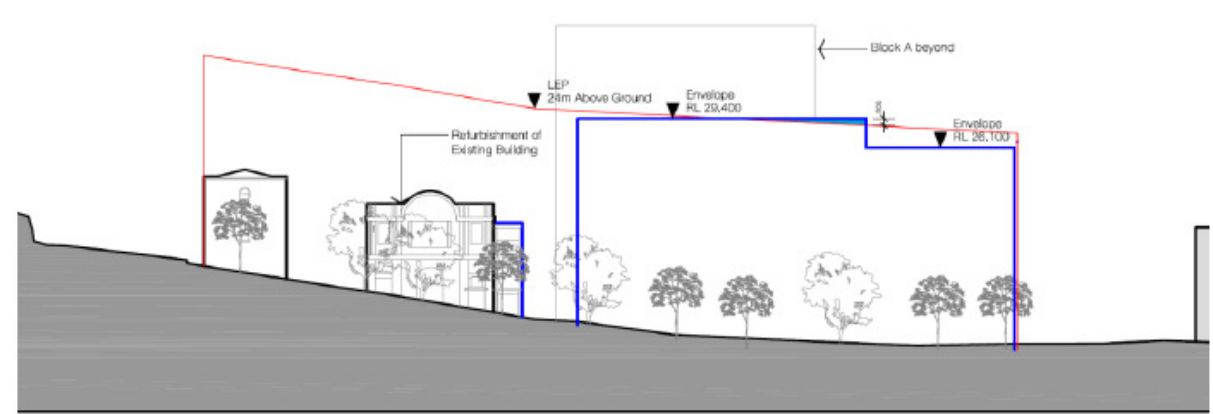
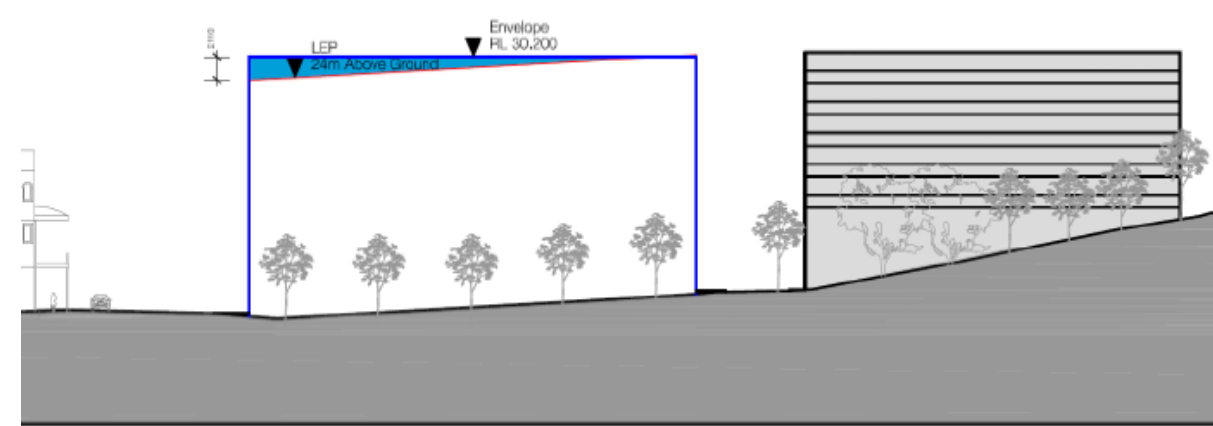


Figure 10: Height variation to Block 3 (Source: SJB Architects)



Proposed Height Variations to Blocks 2 and 3

Having regard to the identical submission, the same assessment of the Clause 4.6 variation applies (to Blocks 2 and 3) and is reproduced as follows. The following variations are supported on the following basis:

- **Block 2 (147-153 Hunter Street):** The variation occurs due to the fall of the land from south to north which results in the upper level of the building protruding above the permitted 24m height plane. At the southern facade of the building the height variation amount to 0.806m, whilst at the northern facade the variation amount to 2.087m. The variation is considered to be minor and will not result in significantly greater impact on overshadowing or view loss and will not hinder the ability of the building to integrate within the streetscape. Further discussion on the impact of views and overshadowing was contained in the Section 79C(1)(b) assessment in the report to the JRPP in relation to the approved Concept Plan.
- **Block 3: (Market Square):** Similarly, the variation to the building within Block 3 occurs due to the fall of the land. Whilst the southern portion of the building sits within the 24m height plane, the northern portion of the building extends above the height plane by 2.11m. This level of variation is also considered to be minor as it relates to only a partial storey of the building and will not result in unacceptable impacts.

Proposed Height Variations to Block1

In respect to Block 1, the original Concept DA had two areas of non-compliance (due to the varied height controls on the site which were considered minor and not anticipated to have any significant impact on views towards the Cathedral nor overshadowing). However consideration to appropriate level of streetscape integration, together with the relationship to the building at the corner of Wolfe and Hunter Street (which does not form part of this development site) would be required at the detailed DA stage.

A detailed assessment (and reference to a more detailed Clause 4.6 Statement) for the Stage 1 DA is provided in the separate report on that application. In summary, this assessment indicates that the applicant has addressed the required criteria within Clause 4.6 and it is considered to be well-founded. The variation sought is supported on the following basis: The overall variation to Block 1 increases its height from the allowable 35m contained in NLEP 2012 to 36.96m (+1.96m) to the parapet and 38.16m (+3.16m) to the top of the plant. The parapet height extends for the width of the upper level of the building, while the plant comprises a much lesser footprint and is a minor additional structure set in to the central part of the building. The plant structure will have limited visibility and does not contribute to additional bulk of built form. The portion of the building that exceeds the building height of 35m is not anticipated to have any significant impact on views towards the Cathedral nor overshadowing, particularly having regard to the positioning of the buildings to the south, which are 11 and 12 storeys in height and which are sited on land where height of up to RL 54.5 and RL 58.9 are permitted. This variation is also considered to be acceptable.

Amendment to Newcastle Local Environmental Plan 2012 - Planning Proposal Newcastle East End Building Heights

The following provides a background to the existing and proposed height controls applicable to the site. The information below is sourced from recent Council reports including the 'Planning Proposal Newcastle City Centre Urban Renewal - East End Building Heights' report (dated October 2016 currently before the Department of Environment and Planning).

Background: In December 2012 the Department of Planning and Infrastructure released the draft Newcastle Urban Renewal Strategy (NURS) for public comment.

In March 2014, the Department of Planning publicly exhibited increased height limits along with other changes to the Strategy which received strong community objection.

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.

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.

Council at its meeting of 24 November 2015 resolved to prepare a Planning Proposal (No. 2015_NEWCA_005_00) to reflect a maximum permissible building height of 24m on land bounded by Hunter, Newcomen, King and Perkins Streets and to insert clause 7.9(4) to allow a maximum building heights of 40m in certain circumstances. These heights were lower than the currently permitted heights across the site. 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).

At the time of preparation of the assessment report of the previous Staged Concept (DA-2015/10182 April 2016), the Planning Proposal had been forwarded to the Department of Planning and Environment and was awaiting Gateway Determination pursuant to Section 56 of the EP& Act. Accordingly, whilst the Department of Planning and Environment had been notified of the draft instrument, the instrument has not been the subject of public consultation and therefore it is not recognised as a draft environmental planning instrument for the purpose of Section 79C(1)(a)(ii). Hence, whilst Council had resolved to prepare a Planning Proposal to effectively lower permissible heights for the subject sites, the progress and outcome of the Planning Proposal had no bearing on that development application.

Current Version of Planning Proposal: The Planning Proposal was amended by amending the Height of Buildings Map to be consistent with the building heights approved in the Concept Proposal by the Joint Regional Planning Panel (JRPP) - refer **Figure 11**. 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 height map so that it is no longer necessary to include clause 7.9(4) in the planning proposal. The Planning Proposal is with the Department of Planning and Environment for final assessment."

Since the assessment of the previous (now approved) Concept DA, the Planning Proposal has been amended (described below) and the status has progressed such that it should now be recognised as a draft environmental planning instrument for the purpose of Section 79C(1)(a)(ii) of the EPA Act, 1979 which requires a consent authority to take into consideration the following when determining a development application:

"(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)..."

Regardless of the existing or proposed Height of Buildings Map, should the revised Concept Proposal be approved, section 83D of the EPA Act (Status of staged development applications) confirms that the *"while any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent."* Effectively, this will ensure that future development applications for each stage of the development remain consistent with the approved Concept Proposal (including height and FSR). Should a future stage seek to vary from the Concept Proposal then modification to the Concept Proposal would be required. This would provide the consent authority with further opportunity to assess the suitability of a revised proposal at that time.

Figure 11: Proposed Height of Buildings Map Planning Proposal PP2015/10004 (Figure 4 of NCC Planning Proposal Report, October 2016)



How does the proposal relate to the Proposed Height of Buildings Map (Planning Proposal)?

The proposed height of buildings map reflects the proposed building locations and building heights of the approved Concept Proposal, so there are discrepancies between the current revised concept DA. The applicant has indicated that the proposed building heights are "generally consistent with the proposed Height of Buildings Map" but has not detailed on an overlay map the proposed heights. An assessment has been undertaken of the building locations and as also illustrated on comparative Building Envelope Plans at Appendix I to this report, which have been extrapolated into Table 4 below. This Table demonstrates that the proposed concept building heights comply with the proposed height of Buildings Map, or have insignificant exceedances (less than 1m) that can be addressed at DA stage.

Table 4: Comparison of Permitted and Proposed Heights (Source: Extract from the Statement of Environmental Effects, SJB Planning)				
Block	Proposed Building	Draft LEP Height Map	Proposed Height	Compliance
Block 1	A: King and Perkins Street Building	RL42	RL40(plant at RL42)	Yes
	B: Former DJ's Building (west)	RL 29	Existing Building (RL33.5)	No/Existing
	C: Former DJ's Building (east)	RL 40 (west) RL34 (east)	RL39.8 (parapet) RL41(plant) 17.4m	Yes No Yes
	D: Wolfe Street	RL42	RL40 (Plant to RL42)	Yes
Block 2	147-153 Hunter St	26m	26.078m	Minor increase (0.078m)
	14-15 Thorn Street	30m	29.4	Yes
	Cnr Thorn and King Street	24m	Existing RL30.43-RL37.0	Existing
Block 3	Market Square West Building	30m	30.02m	Minor increase (0.2m)
	Market Square West Building	30m	30.02m	Minor increase (0.2m)
	121 Hunter Street	20	28.65m-31.28m	Existing Building
Block 4	105-111 Hunter Street	29m	28.35m	Yes
Block 4	Newcomen and King Street Building	42	RL40 (allowance for plant to RL42)	Yes

Clause 4.4: 'Floor Space Ratio (FSR)' & Clause 4.5 'Calculation of FSR and site area'

Clause 4.4 limits the FSR of a development to that shown on the 'Floor Space Ratio' (FSR) Map. The FSR Map indicates that a maximum FSR of 4:1 is permissible on the site (total site area 16,608m²). The Concept Proposal seeks approval for the following (compliant) FSR's: Block 1: 4:1; Block 2: 3.2:1; Block 3: 3.3:1; Block 4: 4:1; Average across site: 3.67:1 (based on a GFA 61,000m²). The proposed density of development is considered reasonable and accords with the requirements of NLEP 2012. Further detailed information to confirm the calculation of GFA for individual buildings and compliance with the definition of GFA will be required at each stage of development.

Clause 5.5: Development within the Coastal Zone

This clause requires the consent authority to consider certain matters and be satisfied that the proposed development will protect the coastal environment and public access to the coast. The proposed development meets the majority of provisions of this clause as it maintains and improves the existing public access from King Street to Hunter Street, providing opportunity to access Scott Street and the foreshore; is a suitable land use activity; will not impact on the amenity with respect to overshadowing of the foreshore, or loss of views from a public place to the coastal foreshore; will not impact on biodiversity and ecosystems, including water quality; and will not have adverse cumulative aspects on the coastal catchment.

Clause 5.10 Heritage Conservation

The subject site contains four heritage items of local significance listed within NLEP 2012 and the whole site is located within the Newcastle City Centre Heritage Conservation Area (Item C4). There is no alteration to the previously-assessed approved concept as it applies to heritage conservation (refer to previous report in **Appendix A** for detail), with the exception that the current application documents address the proposed changes to the building envelope (street wall heights). Council's Manager Development and Building considered the heritage impacts of the revised Concept DA which were found to be acceptable.

Clause 6.1 Acid Sulphate Soils

The north-western corner of the site is located within a Class 4 mapped area of acid sulphate soils (ASS), whilst the balance of the site is within a Class 5 mapped area. With respect to the Class 4 soils, consent is required for works more than two metres below the natural ground surface and/or works where the water table is likely to be lowered beyond two metres below natural ground surface. Consent is also required for works on Class 5 lands, where criteria is met, as specified in clause 6.1. Subclause (3) specifies that development consent must not be granted for the carrying out of works unless an Acid Sulphate Soils Management Plan has been prepared.

The previously assessed and approved Concept DA (as supported by the accompanying Preliminary Site Investigation documentation) was approved on the basis that the Concept Proposal does not seek approval for "works". Therefore it is again appropriate that a condition be attached to the development consent for the Concept Proposal, if approved, requiring that future development applications for the stages be accompanied by an Acid Sulphate Soils Management Plan prepared in accordance with the Acid Sulphate Soils Manual. Subject to this occurring the requirements of Clause 6.1 will be met.

Additional Local Provisions: Clause 7.5 Design Excellence (Newcastle City Centre)

As the application pertains only to a Concept Proposal it is considered appropriate that the level of detail that will confirm compliance or otherwise with the provisions of this clause should accompany the development application for the future stages of the development. Subclause (4)(c) relates to the requirement for an architectural design competition, however as detailed design plans are not required, nor provided at the Concept Proposal stage, this subclause will only be applicable to development applications for future stages of the project.

(a)(iii) any development control plans

Newcastle Development Control Plan 2012

Newcastle Development Control Plan (NDCP) 2012 is the applicable Development Control Plan and the Sections listed below are relevant to the proposed concept development.

6.01 Newcastle City Centre
4.04 Safety and Security
7.02 Landscaping, Open Space and Visual Amenity
7.03 Traffic, Parking and Access
7.05 Energy Efficiency
7.06 Stormwater
7.07 Water Efficiency
7.08 Waste Management
4.01 Flood Management
4.03 Mine Subsidence
4.04 Safety and Security
4.05 Social Impact
5.01 Soil Management
5.02 Land Contamination
5.03 Tree Management
5.04 Aboriginal Heritage
5.05 Heritage Items
5.06 Archaeological Management
5.07 Heritage Conservation Areas
7.04 Movement Networks
7.09 Outdoor Advertising and Signage
7.10 Street Awnings and Balconies

With the exception of Section 6.01 'Newcastle City Centre', which is relevant to the built form outcomes of the precinct, the Concept Proposal is considered to be generally consistent with the DCP, noting that the detailed provisions of the DCP need to be addressed for the individual DAs at each stage of the development. An overview of the relevant DCP matters were addressed in the previous report to the JRPP meeting of 28 April 2016 (refer **Appendix A**) on the previous approved Concept DA-2015/10185. To avoid repetition, only the key relevant headings and/or differences to this previous approved Concept DA are discussed in this section. The key issues within each section, where relevant, are discussed within the relevant heading under 'the likely impacts of the development' section later in this report.

NDCP 2012 - Section 6.01 'Newcastle City Centre'

A brief response to each of the relevant Elements/chapters contained within Section 6.01 (Newcastle City Centre - Locality Specific Provisions) is provided below:

Part 6.01.02 Character Areas - East End

This section of the DCP contains the character statements and supporting principles for development within various precincts of the Newcastle City Centre. The subject site is within 'East End'.

The objectives for this precinct are:

- a) *"Strengthen the sense of place and urban character of the east end as a boutique retail, entertainment and residential destination.*
- b) *Diversify the role of Hunter Street Mall precinct as a destination for many activities including retail, dining, entertainment, nightlife and events, additions to regular day-to-day services for local residents.*
- c) *Promote active street frontages.*
- d) *Protect heritage items and contributory buildings.*

- e) *Protect views to and from Christ Church Cathedral.*
- f) *Promote a permeable street network in Hunter Street Mall precinct with well connected easily accessible streets and lanes.*
- g) *To create a space that is safe, comfortable and welcoming for pedestrians."*

Discussion of the ability to meet the objectives and desired future character for this precinct is contained in the following sections of this report which address landuse, views, heritage and circulations spaces.

Section 6.01.04 Key Precincts - Hunter Street Mall

This section of the DCP contains objectives and performance criteria specific to key precincts, one of which is the Hunter Street Mall. This section of the DCP prevails over Section 6.01.03.

B.02 - Significant Views

Further discussion of views is contained in the following Section 79C(1)(b) assessment.

B.03 - Building Form

This clause requires that street wall heights be selected to ensure that a minimum of 2 hours of sunlight is provided between 9am and 3pm in mid winter on the southern side of the Hunter Street Mall. The "Shadow Analysis" prepared by SJB Architects demonstrates that the Hunter Street Mall is already impacted between 9am and 3pm but the proposed development will not impact further, as it is contained to the southern side of the Mall.

This clause also requires that development be articulated to reflect the fine grain of the precinct and that existing contributory character buildings be retained and re-used. It is considered that articulation has been adequately achieved through the use retention of a number of contributory buildings and/or facades and through the use of mid block connections to provide a break in the building form. A further discussion of compliance with clause B.03 with respect to heritage issues is contained in the section 79C(1)(b) assessment of **Appendix A**.

Section 6.01.03 - General Controls

A1 - Street Wall Heights

The required street wall heights range from 16m to 22m within this precinct. A number of variations have been identified within the Concept Proposal with such variations discussed in detail within the Section 79C(1)(b) assessment of this report.

A2- Building Setbacks

This control specifies that buildings shall be sited on the boundaries up to street wall height and shall have a 6m side and rear boundary setback between street wall height and 45m. Zero front setbacks are specified. The subject site comprises four street blocks, which are bounded on all sides by road frontage and effectively there are no 'side' or 'rear' boundaries, with the exception of those positions where the development site adjoins sites which are not part of the Concept Proposal. Given the integrated nature of the proposal, setbacks have been considered on the basis of building separation controls as discussed within the section pertaining to State Environmental Planning Policy No. 65 and with reference to street wall heights as discussed within the Section 79C(1)(b) assessment of this report.

A3 - Building Separation

Building separation is addressed within the SEPP 65 section of this report.

A4 - Building Depth and Bulk

This clause specifies that residential floor plates above street wall heights are required to have a maximum GFA of 900m² per floor and a maximum building depth of 18m. The 'Design and SEPP 65 Report' (SJB Architects) shows an indicative layout for Blocks 2, 3 and

4 that can comply with this control and/or ensure that the sunlight and cross ventilation requirements of the ADG are met. Variation is sought to maximum floor plates and building depths for Block A (as discussed in the Stage 1 report), which are considered to be justified. Development applications for future stages will also be required to demonstrate that the residential amenity requirements, including sunlight access and cross ventilation, are adequately addressed.

A6 - Heritage Buildings

This clause provides requirements relating to heritage buildings and sight lines, which are discussed in detail in the following Section 79C(1)(b) assessment.

B2- Views and Vistas

This clause provides requirements relating to views and vistas, which are discussed in detail in the following sections of the Section 79C(1)(b) assessment.

B3 Active Street Frontages

Street activation is proposed for all buildings.

B6 - Sun Access to Public Spaces

New public space at Market and Hunter Street will achieve solar access.

Section 94A Development Contributions Plan 2009

As no works are proposed by the concept DA, a levy will be payable to each future DA Stage of the development in accordance with this Plan.

(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

Not applicable.

(a)(iv) any matters prescribed by the regulations

The proposal was reviewed with respect to the relevant EP&A Regulations and are considered satisfactory and/or are addressed elsewhere in this report.

(a) (v) any coastal zone management plan (within the meaning of the *Coastal Management Plan Act 1979*).

Not applicable.

(b) the likely impacts of the development

All likely impacts of the previous approved Staged Concept DA-2015/10185 were addressed/discussed in the previous report to the JRPP meeting of 28 April 2016 (refer **Appendix A**). A list of the heading is provided below. There is no change to these aspects of the concept development (except for minor comments provided, where relevant).

- Aboriginal and Archaeological Heritage
- European Heritage (except for comments on revised street wall heights for Block 1. refer to Discussion under heading 'Street Wall Heights and Building Form')
- Public Domain and Publicly Accessible Private Land
- Acoustic Impacts
- Construction Management
- Service Infrastructure
- Flood Management
- Contamination
- Geotechnical Constraints
- Mine Subsidence

To avoid repetition, only the key relevant headings and/or differences to the previous approved Staged Concept DA are discussed in this section with respect to the current DA, and includes relevant comments from Council's specialist officers, including a response to issues raised in submissions.

View Analysis and Impacts:

Background

As it was a key issue of the assessment of the original Staged Concept DA-2015/10185, a very detailed discussion on impacts of the Newcastle City East development was provided in the previous report to the JRPP meeting of 28 April 2016 (refer **Appendix A**).

This assessment considered existing key views and view corridors, in addition to analysis of the impact of the proposed built form of the staged concept proposal on these views. The impact of the proposal on existing views of some private properties was also provided. A major issue of consideration was the impact to and from the Christ Church Cathedral. Background to previous and existing planning controls and guidelines was included in the report to provide context to the issue, including

- DCP 2005 - Element 6.2 City East
- Newcastle City Centre LEP 2008 and Newcastle LEP 2012
- Newcastle Urban Renewal Strategy 2012 (as originally exhibited)
- Newcastle Urban Renewal Strategy 2012 (exhibition of amendments)
- Newcastle LEP 2012 City Centre Amendment 2014
- Newcastle DCP 2012: View-related controls for the City Centre and Subject Land

The 'Visual Impact and Street View Analysis' (SJB Urban, 2017) provided visual representations ("before" and "after") of impacts of the proposed built form along streets and of key views (ie. generally those identified in NDCP 2012 Figure 6.01-24), and at various points at and near the Cathedral (including Cathedral Park).

In relation to overall views and view corridors, the report on the original Concept DA-2015/10185 stated that:

"The proposed development will indeed alter the Newcastle East City skyline as viewed from afar and will be visible from many locations. Closer to the site, the development will alter the character of the surrounding streets, being prominent in some street views, but overall, the proposal will generally respect important views, noting the DCP's required vistas of the Cathedral being of the "tower, roofscape and pinnacles of the buttresses of the building." TCG Planning concur with the conclusions (page 67) made by SJB Architects but again, are too numerous to reproduce in this report. In summary, with the exception of the views from Cathedral Park (which would be, the impacts on views and view corridors are considered to meet the objectives, performance criteria and acceptable solutions of the DCP."

In relation to the views from Cathedral Park, the assessment confirmed that the proposed built form of the concept DA will negatively impact on the views from Cathedral Park and the Cathedral Park Masterplan. However, it was noted that the height controls within the LEP (former, existing, and proposed reduced heights within the current Planning Proposal) all enable this built form and on balance, it is therefore assumed that Council's higher order LEP height control take precedence over the views achieved from the Cathedral Park.

With respect to impacts private properties, the report stated:

"The view analysis as prepared by SJB Planning has been reviewed and the conclusions with respect to the above three properties are concurred with. Whilst noting that similar views losses are anticipated to be experienced from a number of other properties (including from additional properties identified in more recent submissions), it is considered that the impact is reasonable given the inner city context of the

development site, the significant reduction in building heights which is now proposed (from DA 2014/323) and the general compliance of the Concept Proposal with Council's desired building heights for this locality, which will be reflected within the proposed amendment of NLEP 2014 (if this Planning Proposal is supported and ultimately 'made')."

Current DA Assessment Comment: The only alteration to the approved Staged Concept Plan that would impact on views and view corridors are the buildings within Block 1 (also forming Stage 1 DA-2017/00700) and hence this assessment is limited to these changes. The differences in impacts to existing views and view corridors compared to the as-approved building envelopes on Block 1 was assessed for this DA and is summarised below.

Stage 1 DA (Buildings A-D): Assessment of Impacts to Views

In terms of Block 1, the impact of changes from the approved Concept DA to that of the proposed Stage 1 DA buildings are limited to:

- Minor increase in building height of Building C:
- Building A: increased street wall heights (from 3 storeys to 6 storeys) and removal of 6m setback to upper levels (above Level 3) to Perkins and King Street frontages.
- Building D: 6m setback above street wall (non compliant with NDCP control).

The minor increase to Building C will be imperceptible, and will be improved as the east-west floor plate/building width is reduced and a corridor is provided to the east of that building. The reduced (zero) street wall setbacks will lessen (by a 6m width) the north-south view corridor along Perkins and Wolfe Street frontages to the north (harbour) than that of the built form of the as-approved concept plan. This will consequently reduce the corridor available from some properties to the south of the subject site (south of King Street on The Hill). The commercial and residential properties fronting King Street are likely to experience view reduction along that corridor, however, in the case of Building A, the (allowable) street wall height is generally higher than these buildings and the view would have been impacted anyway. Overall, it is considered that the comparative change will be slight/minor, including from residences on the Hill which are located further away and the perceptible difference in any view corridor loss is lessened.

Council's Manager Building and Development provided the comment with respect to view impacts in the context of heritage items in the locality:

"It is noted that the main change to the concept proposal that is likely to have greatest impact on the heritage significance of individual buildings, and the conservation area generally is associated with the street wall heights. Of particular note is the proposed nil set back above the building at the corner of Perkins and King Streets, and in the former David Jones Wolfe Street Annex building (located adjacent to the Telstra exchange). In assessing the likely impact of these design element change, it is considered that combined with the redistribution of the FSR in areas across the whole site, this will assist in enhancing a number of critical view lines, particularly to and from the Cathedral and foreshore."

In the context of the city centre location, design excellence process and other planning considerations, on balance the proposed building envelopes and resultant impact to views is considered to be acceptable.

Street Wall Heights and Building Form

Figure 6.01-28 (Hunter Street Mall Precinct Plan) contained in Section 6.01.04 of NDCP 2012 confirms the maximum street wall heights which are required within the Newcastle East precinct. This plan confirms that street wall heights of between 16m and 22m are required to ensure that a minimum of two hours of sunlight is achieved between 9am and 3pm mid

winter. Section 6.01.03 of NDCP 2012 confirms that street wall heights are "*an important element to ensure a consistent building scale in streets that have a mix of uses, heritage items and final development*". They provide an "*appropriate street-width to building height ratio*". Clause A1.01 confirms that any development above street wall heights must have a minimum setback of 6m.

Background

The previously submitted Staged Concept DA-2015/10185 sought the following regarding street wall heights and 6m setback above the street wall height.

Table 5: Required and Proposed Street Wall Height and Setback		
Current Block #	Site Location and Associated Street Wall Height (Required and Proposed)	Complied?
1	<i>Cnr King and Perkins St:</i> An 8-10m street frontage height is proposed along the three level retail and residential sleeve to the carpark (Max 22m permitted).	Yes
	<i>Hunter St:</i> A 16-18m wall height is proposed to respond to retained built elements (18-22m permitted). 6m setback from street wall proposed.	Yes
	<i>Wolfe Street:</i> 24m street wall height proposed (16m permitted). No setback.	No
2	<i>Hunter St/Wolfe St/Thorn St:</i> 24m street wall height proposed (18m permitted). No 6m setback	No
3	<i>Hunter St/Thorn St/Laing St:</i> 24m street wall height proposed (18m permitted). No 6m setback	No
4	<i>Morgan St:</i> Approx 4m wall height proposed (18m permitted).	Yes
	<i>Newcomen St:</i> 17-26m street wall height proposed (16m permitted). No 6m setback	No
	<i>Hunter St and Morgan St:</i> 24m street wall height proposed (18m permitted) No 6m setback	No
	<i>King St:</i> 17m street wall height proposed (16m permitted)	No

The following is an excerpt from the assessment report to the JRPP (April 2016) in relation to the above requested street wall heights and setbacks above the street wall for the original Staged Concept DA-2015/10185.

The Statement of Environmental Effects prepared by SJB Planning seeks variation to the wall heights of (*former*) Block 2, Block 3, Block 4 (south and west) and Block 6 on the basis that the proposed wall heights "*take cues from important and retained built elements*" including the dome of the former David Jones building which sits 4m above the proposed 24m wall height. Variation is sought to the street frontage height in Newcomen Street due to the nature of the perimeter block building and the slope of the land.

The objectives of the DCP with respect to street wall heights seek to ensure that streets retain a satisfactory level of sunlight and that the height of walls provides an appropriate ratio to street width. When assessing the proposed street wall heights it is considered that the objective of the street setback control with respect to sunlight access is achieved along the Hunter Street frontage as all development is sited to the south of the mall, ensuring that sunlight access is maintained. Further, Market Square will receive a satisfactory level of sunlight throughout the day, despite street wall heights around its perimeter exceeding the recommended 16m maximum.

In contrast Block 4, which is sited adjacent to Laing Street will significantly overshadow this laneway throughout the day on June 21 and the increased wall height on this boundary is not ideal given the narrow width of this laneway. However, when

considering that the primary purpose of this laneway is for the movement of pedestrian and vehicles, with no direct retail frontages and minimal use as a passive open space, this outcome is considered acceptable. In contrast the street wall height of Block 4 (east) along Morgan Lane and the increased overall setbacks of all levels of Block 4 (west) to Thorn Street will provide a more desirable outcome. In particular, the reduced wall height of Block 4 to Morgan Street will promote an appropriate built form scale within this pedestrian link to the Morgan Street steps.

The Urban Design Consultative Committee in reviewing the submitted documentation raised no objection to the proposed street wall heights and were of the opinion that with respect to wall to street ratio *"the detailed planning at the ground plane and the reduction of footprint from previous proposal and of 1960s fabric, give good potential for lively, interesting streets"*.

The integrated nature of the development will provide further opportunity to ensure that building design and fabric are considered in a comprehensive manner and that any limitations posed by an absence or reduction in upper levels setbacks can be appropriately mitigated. This is reflected in the comments of the UDCC in the statement *"the proposal offers considerable promises, but an outstanding urban outcome will depend upon a similar level of design sophistication being carried through tho the detailed design of each of the six stages."*

In summary, the assessment acknowledged that while the variations sought to the DCP's street wall heights and setbacks may have merit, this can only be determined through more detailed design and analysis at each DA stage. Following consideration of this assessment and so as to confirm the existing DCP controls, the JRPP resolved to impose the following conditions of development consent DA-2015/10185 (Condition Nos 13 and 14):

- 13) *Where the building envelope is above a retained heritage facade, then it shall be set back in accordance with Newcastle DCP 2012 being 6 metres.*
- 14) *With the exception of the Thorn Street frontage of Block 4A and the Laing Street frontage of Block 4A, where the building envelope exceeds the maximum street wall height identified in the Newcastle DCP 2012, then the section of any building above that height shall be set back in accordance with the DCP being 6 metres.*

Proposed Street Wall Height and Setbacks of Current Staged Concept DA

The revised Staged Concept DA seeks to maintain the street wall heights of the abovementioned original Staged Concept DA, with the exception of the proposed building at the corner of Perkins and King Streets on Block 1, which now proposes a variable street wall height of 21m to 35m at the corner (maximum 22m permitted) with no upper level setbacks. This increases the number of non-compliant building envelopes within the Staged Concept DA site by one to that of Table 5 above.

Refer to **Appendix I** (SJB) for 3D massing diagrams that provide a comparison of the approved Concept building envelopes/street wall heights as compared to the proposed street wall heights.

Figure 1 consists of five site plan diagrams illustrating proposed street wall heights for different building configurations. The diagrams are color-coded according to the height of the street wall: purple for 22m, red for 18m, orange for 16m, and yellow for 6m setback. Dimensions are provided for various building sections and setbacks.

- Diagram 1 (Left):** Shows a building footprint with a 22m street wall height on the left and top, and 18m on the right. Dimensions include 22-25m, 22-25m, 21m, 35m, 21m, 35m, and 21m.
- Diagram 2 (Top Middle):** Shows a building footprint with an 18m street wall height on the top and right, and 16m on the left. Dimensions include 18m, 18m, 24m, 16m, and 16m.
- Diagram 3 (Bottom Middle):** Shows a building footprint with an 18m street wall height on the top and right, and 16m on the left. Dimensions include 18m, 18m, 24m, 16m, and 16m.
- Diagram 4 (Right):** Shows a building footprint with an 18m street wall height on the top and right, and 16m on the left. Dimensions include 18m, 18m, 24m, 16m, and 16m.
- Diagram 5 (Bottom Right):** Shows a building footprint with an 18m street wall height on the top and right, and 16m on the left. Dimensions include 18m, 18m, 24m, 16m, and 16m.

Key:

- 22m Street Wall Height
- 18m Street Wall Height
- 16m Street Wall Height
- 6m Setback Street Wall
- Proposed Street Wall Height

- Respond to the street wall height of the heritage former David Jones Building at the corner of Hunter and Perkins Streets, which is to be retained, and provide an appropriate transition to the adjacent Telstra site;
- Allow for a strong corner building at the junction of these streets to respond to opposing corner conditions;
- Increase separation distances to the buildings on the northern and eastern part of the block; and
- Improve solar access into the through-site pedestrian link."

- The proposed buildings envelope are consistent with the objectives of the NDCP to establish strong street walls with highly defined public spaces;
- The height and rhythm of the Hunter Street wall is referenced against existing buildings, located along the length of the site. While this varies from 18m and 22m, relative to the street wall height control specified in the NDCP, it responds appropriately to important and retained built elements;
- The former David Jones building, which is to be retained and adaptively reused, remains the prominent feature within the Hunter Street streetscape. This building has a street wall height of 22-25m and the dome up to 28.2m. As an existing heritage building, it is deemed to comply with the 22m street wall height. The proposed street wall heights takes its cues from the David Jones building and reinforces a consistent building scale along the southern side of Hunter Street;
- Increased street wall height up to 35m on the corner of Perkins and King Streets creates the opportunity for a strong corner landmark building that responds to the opposing corner conditions. A building located at this corner should act as a landmark to the precinct when approaching from the west end of King St in the same way as David Jones building when approaching the site from the west end of Hunter Street; and
- The proposed building envelope to the south of the listed heritage David Jones building has 22m street wall height to Perkins Street. This responds to the street wall height of the heritage building. Further south along Perkins Street, the street wall height steps up to approximately 35m towards the junction of King Street. The street wall height steps back down to 22m further east along King Street, where it adjoins the Telstra site. This provides a transition to the 16m street wall height which applies to the Telstra site;
- The building envelope to the retained Wolfe Street heritage facades has a street wall height of 35m and does not accommodate 6m setback. This approach was supported in the Statement of Heritage Impact (SOHI) prepared by TKD for the approved Staged DA

and resubmitted with the Heritage addendum prepared by City Plan Heritage (Refer to Attachment 1 of the SEE);

- *This building is a perimeter block building and is proposed to be built to the street edge. The proposed street wall height and lack of setback will be viewed in the context of existing and future built form and a vegetated streetscape, and will result in a strong street wall; and*
- *Redistributing height across the site to improve scale relationships at the south-east and south-western edges of the site and to minimise impacts on public and private view.*

Request for Further Information:

Further information was requested from the applicant to specifically provide a comparison between the impacts of the approved Staged Concept Plans (street wall heights and JRPP-imposed condition for 6m setbacks above heritage facades and street wall heights) as compared to the "as proposed" design. This should have regard to:

- views from likely affected properties, in particular The Hill
- overshadowing impacts
- visual impact (bulk/scale) from private properties and public domain.

The applicant provided an 'Updated Staged DA Shadow Analysis' and an 'Addendum View Analysis' which provided a comparison of the overshadowing, visual and view loss impacts of the approved Staged DA with the complying street wall heights and 6m upper level setbacks, and the proposed street wall heights.

Current DA Assessment Comment:

The additional/supplementary documentation, while useful, is still conceptual and diagrammatical for Blocks 2-4 noting that a detailed analysis has accompanied the Stage 1 DA for Block 1 only at this stage. In some instances the comparative approved/proposed envelopes show significant additional visual bulk, which illustrates a less favourable outcome. This is partly addressed in the applicant's view analysis explanatory note. However, it is considered that there is still not enough detail from which to make a determination on appropriate built form as compared to the DCP setback controls above street wall height. As the approved built form of a Concept DA effectively supersedes the applicable built form controls until the site is fully developed, it is not appropriate to enable significant increased street wall heights and base the long term controls for such an important precinct on this documentation. The statement in the DCP that street wall heights are "*an important element to ensure a consistent building scale in streets that have a mix of uses, heritage items and final development*" is supported. The sense of enclosure and consideration of human scale, together with the detailed elements of a proposed building design are also important factors to the streetscape, and the increases proposed to the current street wall heights (and removal of associated 6 metre setbacks above street wall height) should be considered in this context - not conceptual diagrams.

The original assessment approach is therefore maintained with respect to the street wall heights sought for this Staged Concept DA for Blocks 2, 3 and 4 - being that while the variations sought to the DCP's street wall heights and setbacks may have merit, this can only be determined through more detailed design and analysis at each DA stage. It is therefore recommended that the variations sought to the DCP's street wall heights for Blocks 2, 3 and 4 not be granted at the concept stage (except for Thorn and Laing Street on Block 3, which has already been supported) as permitted by the existing Condition No. 14 of the existing Consent. Conditions 13 and 14 (requested by the JRPP for the previous DA) should be re-imposed for the current DA (refer to Conditions 12 and 13).

The variations sought to the street wall height and setbacks within Block 1 (namely the building at the corner of King and Perkins Street and the building fronting Wolfe Street) have been considered as part of the assessment of the concurrently lodged Stage 1 DA-

2017/00700. Refer to the separate report in relation to this DA. In summary, the report recommends that the proposed street wall heights and built form and massing have been well considered, having addressed street edges, corner treatments, heritage issues, the pedestrian experience and impacts to adjacent properties through a design excellence process. In this regard, the proposal is an appropriate outcome for the site and the variation to the street wall heights for Block 1 are supported.

Overshadowing

Refer to report at **Appendix A** on the previous approved Concept DA regarding overshadowing impacts. As indicated elsewhere in this report, there is no proposed amendments to the as-approved street wall heights and building heights for Blocks 2, 3 and 4 and hence there are no alterations to overshadowing impacts (which were satisfactory). Altered overshadowing occurs as a result of the proposed built form for Block 1, which is detailed in the separate assessment report for the Stage 1 DA. In summary, this assessment concludes that the level of sunlight access to be obtained by adjacent developments is acceptable, having regard to the comparative change between the level of overshadowing cast by the approved Concept and the Stage 1 application and the existing/approved functions of adjacent buildings. Further, the level of sunlight access achieved by Victoria Way, whilst not ideal, is improved from that identified in the approved Concept and is also considered to be acceptable.

Public Domain & Publicly Accessible Private Land & Funding Arrangements

The previous approved and current Concept Proposal includes an 'Indicative Public Domain Strategy' (Aspect Studios, June 2017) that provides a network of smaller activities, squares, routes and spaces within the site and along internal public road reserves within and immediately adjacent to the site. There is no change from the previously-approved scheme, with the exception of the shape/configuration of the Block 1 Perkins to Wolfe Street Link (which now excludes service vehicles and is pedestrian only). This link will be privately owned and maintained. There will be no change to the other aspects of public domain improvements, which will be funded by the developer at each stage of work at each frontage of the development sites.

Council's Senior Public Domain Planner advised that there is a *Draft East End Stage One - Public Domain Plan* that has been prepared by Council (not yet publicly exhibited) and there may be opportunity to update the applicant's final landscape plans to coordinate with the Council's Plans including to reflect the new road layout. Part B of the *Section 94A Contributions Plan (City Centre)* allocates \$3 million for the Implementation of East End Public Domain Plan, however this is not enough to fund the larger scale proposed public domain works within the land (including land to be dedicated to Council, being Market Square and Comen Lane) and publicly owned areas (Morgan Street Steps and Shareways), and this shortfall has not been resolved. As reported with the previous DA, *"it is critical that this be established at the earliest opportunity and it is recommended that the Part B of the Section 94A Contributions Plan (City Centre) be reviewed as soon as possible in the context of the draft Hunter Street Newcastle Public Domain Masterplan (to be costed), to ensure the proposed public domain works are constructed at the appropriate time having consideration to the likely staging."*

The existing conditions of development consent DA-2015/10185 relating to Section 94 Contributions (44 and 45) and Public Domain (46-53) are considered to remain relevant to the revised Staged Concept DA and should be re-imposed for the current DA (with appropriate updating/edits, as referenced in Condition 40 and 41).

Traffic, Parking & Access

Background: Approved Staged Concept DA-2015/10185

A detailed assessment of traffic parking and access matters was provided within the report to the JRPP meeting of 28 April 2016 (refer **Appendix A**) for the original Concept DA-2015/10185. As a consistent approach to the assessment to the current DA is required, the following matters relating to the assessment and determination of the previously-approved Concept DA are important to note in consideration of the current DA which it intends to replace. Specifically, how Council addressed the on-site parking shortfall and parking allocation for the land uses across the site.

Based on the carparking requirements contained in Section 7.03 (Traffic, Parking and Access) of NDCP 2012 the following parking spaces were required:

- 429 residents spaces to service the 565 apartments;
- 113 visitor spaces (for 565 apartments)
- 127 spaces to service the 4900m² of retail and 2700m² of commercial.

A total of 669 carparking spaces were required to service the development, whilst 491 spaces were proposed, leaving a shortfall of 178 parking spaces. The application justified this shortfall on the basis of a surplus within the proposed Block 1 carpark, and retail and commercial demand could be met by on-street parking and the Council-owned multi-deck car park at Laing/King Street which was intended to accommodate parking demands of the precinct. The assessment report discussed this matter as follows:

Council's Senior Development Officer estimates that *"around 25% of Council's 478 multi-level car park or 120 spaces will be required for this development. This would require a change to the current operational focus of the car park from long term / all day parking to short term parking encouraging regular turnover"*. In this regard he confirms that Council Management has advised the following:

'Council is committed to supporting the renewal of the broader Newcastle CBD and will implement the necessary operational changes to facilitate the parking demands of this and other developments are met. This means ensuring:

- *Hours of operation are extended to meet retail and commercial function of the development;*
- *The car park operates on weekends;*
- *Pricing mechanisms reflect the need to promote short stay parking."*

Council's Senior Development Officer concludes that "the parking shortfall can be adequately catered for in Council's existing multi-level parking station and time restricted kerbside parking. Notwithstanding Council will require the provision of a minimum of 5 dedicated visitor parking spaces within each of the 6 distinct car parks proposed under this development. This equates to 25% (30 spaces) for visitor parking being provided on-site and the remaining visitor parking 75% (83 spaces) being catered for in Council's multi-level parking station and time restricted kerbside parking in surrounding local streets." Further, Council's Contract Development Officer (Engineering) recommends that in addition to the requirements for 25% of the visitor parking which is to be located on site, all residential parking, all commercial staff parking and all retail staff parking should also be located on site. This recommendation will be reflected in a condition of consent, should the Concept Proposal be approved.

This will ensure that permanent resident/tenant parking is provided on site, whilst accepting use of the Council carpark for shorter term stays. Further, the use of Council's carpark for visitors to the residential and commercial components of the site is acceptable having regard to the fact that the carpark currently services the commercial/retail floor area which exists within the subject site, as individual sites do not

contain on-site parking. This effectively results in a situation where carparking 'credits' apply to the subject site, whereby it is reasonable to accept that the 'new' floor area which replaces 'existing' floor area should be allowed to continue to benefit from the continued use of such public carpark.

Whilst the operation of the Council carpark is not a matter which the applicant can address in conjunction with the proposed development and is a separate matter to the Concept Proposal, it is recommended that Council proceed with the above operational changes to the carpark, should the stages of the Concept Proposal proceed. Such changes should be implemented prior to occupation of the various stages of development."

TCG Planning requested Council to obtain the status of this car park management from the relevant Division of Council and ideally a written commitment of the arrangements that will be undertaken together with a timeframe. No response was provided and it is understood that no progress to future carparking management has occurred.

Current DA: Comparison to Approved Concept

A comparison of the key traffic and parking aspects of the current and approved DA is as follows (refer also **Table 6** for parking spaces):

- *Traffic Generation and Impact:* a marginal increase of between 30 and 80 vehicle trips per hour in excess of the previously approved concept development (noting updated traffic data used). As with the approved DA, the (reduced) Level of Service including to major intersections, is within acceptable RMS guidelines.
- *Servicing* locations are largely the same as previously approved, with the main change being a consolidated vehicle and servicing access for Block 1/Stage 1 to enable a larger pedestrian-only block linkage at Block 1 between Perkins and Wolfe Streets. **Refer Figure 13.**
- *Parking* capacity across the site has increased across the site (from 491 to 549 spaces) This is largely due to the location of basement parking on Blocks 1 and 4 instead of the previously approved at grade parking. Five car parks across the site are now proposed (reduced from previously-approved 6), however these will be subject to detailed design at future DAs for each stage. The approved concept DA incorporated a separate at-grade/three level car park within Stage 1 which was required via a condition of development consent to "*be completed and operational prior to the issue of any Occupation Certificates for the residential units within Stages 1 and 2 combined.*"

Table 6 Comparison Between Approved and Proposed	
Approved Concept DA (DA2015/10182)	Current Concept DA-2017/701
491 Spaces (approx.)	549 spaces (approx.)
Block 1: 233 (149 in Perkins/King St; 84 in Wolfe St)	Block 1: 273
Block 2: 76	Block 2: 76
Block 3: 88	Block 3: 88
Block 4: 94 (72 Newcomen St; 22 in Morgan St)	Block 4: 112

Figure 13: Servicing and Parking Concept Plan (SJB Architects)

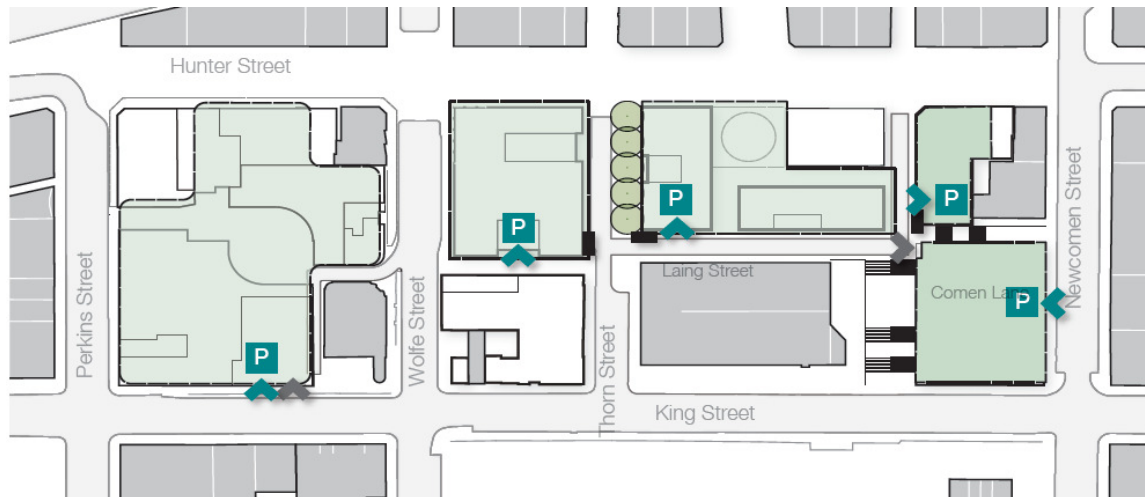


Table 7 shows, on a block by block basis, the number of parking spaces required under the NDCP and proposed as part of the development.

Table 7: Car Parking Requirements by NDCP 2012 and Concept DA Provision						
					Total Parking	
Car Spaces Required	Block 1	Block 2	Block 3	Block 4	Proposed Concept	Approved Concept
1 Bed Units <i>0.6 spaces x 266 units</i>	41	28	34	57	160	187
2 Bed Units <i>0.9 spaces x 241 units</i>	118	50	13	35	216	203
3 Bed Units <i>1.4 spaces x 52 units</i>	34	0	39		73	39
Total Residential Parking Required	193	78	86	92	449	429
Residential Visitor Spaces Required <i>(1 for first 3 dwlgs, + 1/5 thereafter)</i>	45	21	20	27	113	113
Retail/Commercial GFA	3650	1322	2951	1012	8935	7600
Required Retail/Commercial spaces <i>(1/60m2 GFA)</i>	61	22	49	17	149	127
Total Car Spaces Required	299	121	155	136	711	669
Total Car Spaces Provided	273	76	88	112	549 Shortfall:162	491 Shortfall: 178
Residential	198	76	85	92	454 Excess: 5	
Residential Visitor	45	0	3	20	68 Shortfall: 45	
Retail/commercial	30	0	0	0	30 Shortfall: 11	

It is noted that overall the current concept DA generates 49 more parking spaces (711) than the approved concept (669), with the total shortfall being less (162 instead of 178). It is reasonable to take a consistent approach to that of the approved Concept DA with respect to car parking assessment and concessions, which is in summary involved the following:

- All resident car spaces must be provided on site (within each associated Block/Stage);
- A large proportion is to be provided in Stage 1 to ensure ongoing parking availability;

- 25% of residential visitor parking is to be provided on-site (for the approved concept DA a condition was imposed requiring 5 spaces to be provided in each of the 6 car parks across the precinct)
- The remaining 75% of residential visitor spaces can be accommodated within the existing council carpark and timed on-street car parking (which equated to 83 spaces in the approved concept);
- All staff parking for the retail and commercial is to be provided on site. Note: the NDCP does not specify what percentage of staff parking is to be provided, and a condition was imposed to the approved Concept DA indicating that *"the Traffic and Parking Impact Assessment for each stage shall detail the number and location of spaces required satisfying the demands of commercial and retail staff."* Council's Contract Development Officer (Engineering) has indicated in the internal referral that an assumption of 50% should apply.

In applying the above, the revised concept DA will generate car parking spaces as indicated in Table 8 below.

Table 8: Council Agreed Concessional Car Parking Requirements and Provision					
	Block 1	Block 2	Block 3	Block 4	Total Required
Total Residential Parking Required	193	78	86	92	449
Total Residential Parking Provided	198	76	85	92	451
Residential ON SITE Visitor Spaces Req'd (25%) Remaining 75% can be accommodated by Council car park and on-street	11 45 provided	5 0 provided	5 0 provided	7 3 provided	28
Required ON SITE Retail/Comm spaces for staff (50%) Remaining 50% can be accommodated by Council car park and on-street.	31 31 provided	11 0 provided (-11)	25 0 provided (-25)	9 0 provided (-9)	76 31 provided (-45)
Total Car Spaces Required	235	94	116	108	553
Total spaces provided	273	76	88	112	549
Total Excess (+) Deficiency (-)	(+38)	(-18)	(-28)	(+4)	(-4)

The overall number of spaces provided for the overall development and each Block/Stage (with the exception of Block 1/Stage 1) is deficient in particular for residential visitor and retail/commercial spaces. No satisfactory justification has been provided by the applicant as to the number of on-site staff spaces provided (only 20%) which is inadequate, in particular having regard to the concessions already provided. In addition, while it is acknowledged there is an excess of residential visitor spaces provided for Blocks 1 and 4, no justification has been provided as to the lack of (significantly reduced) visitor spaces provided for Blocks 2 and 3 and no retail/commercial staff spaces provided for Blocks 2, 3 and 4.

For functionality and practicality (including for future strata subdivision and leasing), it is considered that every Block/car park should provide the minimum (reduced rate) residential visitor parking and retail/commercial staff parking (at 50% of required retail/commercial staff parking rate). For example, it is impractical from a proximity aspect for a business or retail owner/manager and/or key staff of a premises within Blocks 2, 3 and 4 to park in the basement of Block 1. Blocks 2, 3 and 4 will need to increase the number of car parking spaces within future development applications to reflect the required allocation rates, and this will be conditioned accordingly. In theory, this should be achievable, as it was in the

originally submitted Concept DA (spread over an increased number of carparks, which have now been consolidated).

In conclusion, overall, the traffic, servicing and parking arrangements (subject to above-mentioned reallocation of parking spaces) are satisfactory. Council's Contract Development Officer (Engineering) provided the following summarised comments/recommendations:

As a concept approval I believe the proposal can be supported on the basis that an amended/revised traffic impact assessment...be submitted with each development application for the relevant stages. In providing this documentation the applicant should be advised as follows;

- The proposed site accesses seem to be satisfactorily located with good separation from intersections. Construction types, widths and pedestrian and vehicular sight lines would still need to be reviewed at the future DA stage for the construction of each when detailed plans are available.*
- Traffic data and road network assessment should be reviewed at each DA stage to account for any road network changes affecting the capacity of the road network. E.g. Newcastle Light Rail Project.*
- Each of the proposed stages / blocks as a minimum need to provide all residential tenant parking, all commercial staff parking (50 % of total requirement), all retail staff parking (50 % of total requirement) and 25 % of visitor car parking on-site.*
- Waste servicing of all blocks within stages 1 to 4 should be undertaken on-site as new buildings are proposed.*

(c) the suitability of the site for development

The report for the previous Concept DA confirmed that the site is suitable for the proposed staged development, subject to the submission of further detailed investigations, documentation and strategies to comprehensively address contamination, mine subsidence, geotechnical constraints, retaining wall construction, acid sulphate soils, groundwater and flooding in conjunction with each stage of the development.

(d) any submissions made in accordance with this Act or the Regulations

Section 4 of this report contains a summary of the issues raised within public submissions. A response to the concerns raised regarding building height is contained in Section 6 (Section 79C(a)(i) - NLEP 2012), whilst bulk/scale, traffic, parking is discussed in section 79C(1)(b).

Many submissions received raised concern regarding impacts of construction on existing nearby buildings and resident amenity. In accordance with recent amendments to the Environmental Planning and Assessment Act 1979, it is clear that where a concept proposal does not include any physical works, the consideration of impacts of carrying out the development may be deferred until when a subsequent development application for physical works is made. Construction impacts for Stage 1 (Block 1) are therefore addressed in detail for the concurrent DA-2017/00700.

(e) the public interest

The Concept Proposal will facilitate the achievement of Council's vision for the Hunter Street Mall as contained within the Newcastle Urban Renewal Strategy and NDCP 2012 (Section 6.0104) by promoting a boutique shopping, leisure and retail destination, with street level activation. This, together with activation through residential use provides a range of landuse types within both heritage/contributory buildings and within new building works. When coupled with the mid block pedestrian connections which are proposed, the Concept Proposal has the ability to deliver the urban design outcomes contemplated by the strategy.

It is recognised that there is potential for short to medium term economic impacts on businesses and amenity impacts on residents. Subject to the submission of further detailed information to clearly address mitigation strategies and ongoing management in conjunction with future Development Applications, it is considered that the overall economic and social benefits of the Concept Proposal are in the public interest.

7. Conclusion

The current Concept Proposal revises a previously considered and approved concept scheme for the Newcastle East End Precinct. The current Concept DA is similar to the previously approved one, with the main changes applying to Block 1 which are detailed in a concurrent Development Application.

The Concept Proposal, whilst containing the fundamental principles of the development does not, nor is it required, to provide the level of detailed which is necessary to allow for complete assessment of the application against the detailed controls of NLEP 2012, NDCP 2012 and relevant state environmental planning policies. However, an initial assessment of the information submitted with the application confirms the Concept Proposal can generally achieve the required built form outcomes, subject to the submission of detailed documentation at the development application for each stage of the project to address any variation to standards of NDCP 2012 or the 'Apartment Design Guide' (including street wall height and separation distances). It is considered that the integrated nature of the development will provide further opportunity to ensure that building design and fabric are considered in a comprehensive manner. The submission of such documentation and the undertaking of a rigorous assessment of future applications is considered critical.

The changes from the previously approved concept DA relate to Block 1 and detailed assessment of these aspects have been undertaken concurrently and found to be acceptable with respect to amended building heights, footprints and street wall heights and setbacks, views and heritage impacts.

In relation to on site car parking provision, the same concessions given to the previously approved Concept DA were applied to this application which relies on utilisation of Council's existing 478 multi-level car park at King Street to provide approximately 150 spaces for commercial/retail and residential visitors. This would require a change to the current operational focus of the car park from long term / all day parking to short term parking encouraging regular turnover or alternatively to a mix of short and long term parking, which Council will be required to implement as a separate matter. The on-site parking provided for each Block (except for Block 1) were assessed to be insufficient for retail staff and residential visitors. The correct minimum number of spaces for these uses will be required to be provided for each Block and demonstrated for each future Stage DA (to be required by a condition of consent, refer to condition 19).

On balance, and having regard to the recommendations above, it is considered that the revised Concept Proposal will still achieve the desired street level and built form outcomes for this precinct and will promote the revitalisation of the Hunter Street Mall. Accordingly, approval of the Concept Proposal is recommended subject to the provision of detailed documentation and management plans with development applications for future stages, together with ongoing consultation with referral bodies and the community.

8. Recommendation

That the Joint Regional Planning Panel grant consent to 2017/701, subject to the conditions contained in Appendix B.

APPENDICES

Appendix A: Assessment Report to Joint Regional Planning Panel for Original Concept DA-2015/10182 (28 April 2016)

Appendix B: Recommended conditions of consent

Appendix C: Complete list of the documents submitted with the application for assessment.

The key plans of the proposed concept development are provided at **Appendix D to J**, listed below:

Appendix D: Concept Proposals, including overall site Concept Proposal, indicative floor plans, building envelope elevations, sections, public access plan, staging plan and FSR Plan (SJB Architects)

Appendix E: Building Conservation and Retention Plan (TKD Architects)

Appendix F: Massing Diagrams (SJB Architects)

Appendix G: Indicative Public Domain Strategy (ASPECT)

Appendix H: Indicative Photomontages

Appendix I: Comparative Building Height Diagram

Appendix J: Comparative Street Wall Height Diagram

Appendix K: Clause 4.6 - Variation to Height of Buildings