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| <b>DATE OF DETERMINATION</b>    | 19 July 2018   |
| <b>PANEL MEMBERS</b>            | Jason Perica (Chair), Kara Krason, Abigail Goldberg and Cr. John MacKenzie |
| <b>APOLOGIES</b>                | Michael Leavey and Cr. Jason Dunn  |
| <b>DECLARATIONS OF INTEREST</b> | None   |

Public meeting held at Travelodge Hotel Newcastle on 19 July 2018, opened at 1.30pm and closed at 4.10pm.

#### **MATTER DETERMINED**

PANEL REF – 2017HCC050 - LGA – Newcastle – DA2017/01399 AT 38 Hannell Street, 2-4 Bishopsgate Street and 13 Danger Street, Wickham (AS DESCRIBED IN SCHEDULE 1)

#### **PANEL CONSIDERATION AND DECISION**

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

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to defer the application as described in Schedule 1.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel generally agreed to the overall assessment of the environmental impacts as outlined in the staff report. In particular it was noted:

- The compliance of the proposal with the FSR (around 16% below the maximum);
- The site location close to public transport and services;
- The design evolution of the proposal, including revisions following advice from Council's Urban Design Consultative Group;
- Generally appropriate site planning; and
- Potentially improved public domain.

In terms of the northern building, regard was given to the ADG side setback non-compliance. Subject to removal of secondary side balconies and further treatment of windows, the panel was satisfied regarding the wall setback distance (approximately 8.4m at the closest point, varying to more).

Regard was also given to the non-compliant front tower setback above the podium to Bishopsgate Street from the 6m DCP control, although noting the street interface of the adjoining building and the design measures incorporated, was satisfied regarding this setback.

Another matter raised in submissions was the recently endorsed Masterplan for the Wickham area. The Panel was of the view that this had lesser weight than the current LEP and DCP, and also

noted there were somewhat conflicting statements within the Masterplan regarding height for the site, which could be read that both greater and lesser height may be appropriate. The proposal was nonetheless not inconsistent with the overall strategic direction of the Masterplan.

Despite the above, after considering the assessment report, proposal, submissions and applicable controls, the Panel held a number of concerns regarding various aspects of the proposal related to:

- Setbacks to the western boundary for the northern and southern buildings and associated balconies to living rooms on those elevations (also noting the ADG non-compliance), related to the privacy, orientation and relationship with existing and likely future buildings to the west;
- Western side window openings in the southern building to living areas;
- Streetscape impacts to Dangar Street and the lack of a “front” address to that street;
- Lack of details regarding sections of exposed blank walls to the south and west of the podium;
- Opportunities relating to public art and a current mural on the site which is valued by the local community, with concurrent opportunities for sections of blank wall(s);
- The Clause 4.6 Variation request not including the rooftop structures in the building height, with resultant uncertainty regarding the final height variation. In addition, the Clause 4.6 Variation not clearly addressing the objectives of that Clause; and
- The lack of information before the Panel regarding archaeological impacts, yet understood to be a potential issue.

However, these concerns were not considered sufficient to warrant refusal of the application as they are regarded as being able to be addressed through revisions to the design and the provision of further information in a timely way.



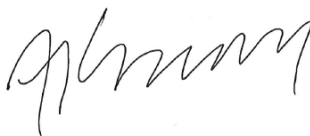

## **TERMS OF DEFERRAL**

The application be deferred for further assessment and determination by the Panel (which may be by electronic means) and the applicant be invited to submit the following information, within 6 weeks of the date of publishing this decision:

(a) Amended plans which:

- i. Remove the western side balconies adjoining the living area(s) from the western elevation of the northern and southern buildings, with the exception of the single aspect balconies for the one bedroom apartments in the northern tower.  
Consideration may be given to retaining some sun screening devices if needed, provided such devices are not capable of access as a balcony (including in the future);
- ii. Include privacy screening devices (eg external louvres) to living windows in the western elevation given the orientation and ADG non-compliance;
- iii. Revise the living room windows in the western elevation of the southern building to a similar “slot” design window as proposed for the northern building;
- iv. Incorporate additional balconies to the southern elevation to Dangar Street to better activate that street and soften the elevational treatment (without altering the FSR) with consideration given to the front balcony being the principal private open space area for apartments facing west to minimise potential privacy impacts should the adjoining site be redeveloped in the future considering the non-compliant building separation distance; and
- v. Detail (finish, colour, material) the blank sections of wall to the south and west of the podium, where this podium does not directly adjoin the existing podium to the west.

- (b) A revised Clause 4.6 Variation Request which accurately identifies the height non-compliance in both 2 and 3 dimensions, and addresses the objectives of Clause 4.6 in Newcastle LEP 2012;
- (c) Consideration of the provision of public art to be integrated into the design. It is noted that the existing mural on the site has local community value, and options related to a mural installation referencing the existing mural (for example by engaging the same artist) should be considered for the blank wall component facing Dangar Street.
- (d) An archaeological assessment that in particular assesses indigenous archaeology in relation to the site.

| PANEL MEMBERS   |  |
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| <br>Jason Perica (Chair) | <br>Kara Krason        |
| <br>Abigail Goldberg     | <br>Cr. John MacKenzie |

| SCHEDULE 1 |                                   |  |
|------------|-----------------------------------|--|
| 1          | PANEL REF – LGA – DA NO.          | Panel Ref - 2017HCC050 - LGA – Newcastle – DA2017/01399  |
| 2          | PROPOSED DEVELOPMENT              | Demolition of buildings and erection of a 14-storey shop top housing development consisting of 149 residential units, three commercial units, four levels for parking for 165 cars and associated site works.  |
| 3          | STREET ADDRESS                    | 38 Hannell Street, 2-4 Bishopsgate Street and 13 Danger Street, Wickham  |
| 4          | APPLICANT/OWNER                   | Applicant – Thirdi 38 Hannell St Pty Ltd<br>Owner – Hannell St Developments Pty Ltd, Australasian Conference Association Ltd, PA Grob, BJ Holland and Newcastle City Council (ir Bishopsgate Street rad reserve)   |
| 5          | TYPE OF REGIONAL DEVELOPMENT      | Capital Investment Value over \$30million  |
| 6          | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ State Environmental Planning Policy (Urban Renewal) 2010</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> </ul> </li> </ul> |

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|   |   | <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>○ State Environmental Planning Policy (Coastal Management) 2018</li> <li>○ Newcastle Local Environmental Plan 2012</li> <li>● Draft environmental planning instruments: Nil</li> <li>● Development control plans: <ul style="list-style-type: none"> <li>○ Newcastle Development Control Plan 2012</li> </ul> </li> <li>● Section 94A Development Contributions Plan 2009</li> <li>● Wickham Masterplan</li> <li>● Planning agreements: Nil</li> <li>● Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>:</li> <li>● The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>● The suitability of the site for the development</li> <li>● Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>● The public interest, including the principles of ecologically sustainable development</li> </ul> |
| 7 | <b>MATERIAL CONSIDERED BY THE PANEL</b>           | <ul style="list-style-type: none"> <li>● Council assessment report: 12 July 2018</li> <li>● Written submissions during public exhibition (and one provided to the Panel meeting): 3 + 1</li> <li>● Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Support – Nil</li> <li>○ Object – Lee Shearer, Callie McLean (written submission)</li> <li>○ On behalf of the applicant – Alan McKelvey from Sparke Helmore, Luke Mahaffey (architect) and Derryn Holloway (planner).</li> </ul> </li> </ul>   |
| 8 | <b>MEETINGS AND SITE INSPECTIONS BY THE PANEL</b> | <ul style="list-style-type: none"> <li>● Final briefing meeting to discuss council’s recommendation, 19 July 2018, 1.00pm to 1.30pm.</li> <li>● Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Jason Perica (Chair), Kara Krason, Abigail Goldberg and Cr. John MacKenzie,</li> <li>○ <u>Council assessment staff</u>: David Paine (assessment officer), Priscilla Emmett (team coordinator) and Rajnesh Prakash (senior development officer of engineering).</li> </ul> </li> </ul>  |
| 9 | <b>COUNCIL RECOMMENDATION</b>                     | <b>Approval</b>  |

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| 10 | DRAFT CONDITIONS | Attached to the council assessment report |
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