

PANEL REFERENCE	PPSHCC-104
DA NUMBER	DA2021/01530
LGA	City of Newcastle (CN)
PROPOSED DEVELOPMENT	Mixed used development, including shop top housing with 352 dwellings, ground floor retail premises, and commercial premises.
STREET ADDRESS AND OWNER DETAILS	Lot: 2 DP: 1271240 & Lot: 11 DP: 1270693, 854 Hunter Street Newcastle.
APPLICANT	Doma Interchange Development Pty Ltd C/o SLR Consulting Australia Pty Ltd
DATE OF DA LODGEMENT	17 November 2021
RECOMMENDATION	Approval

Background

The subject application ((DA2021/01530) for a Mixed Use development, including shop top housing with 352 dwellings, ground floor retail premises, and commercial premises, known as 'The Store' was reported to the Hunter Central Coast Regional Planning Panel (HCCRPP) for determination on 20 June 2022.

This supplementary memo provides further information in response to matters raised during the determination meeting and provides associated amended conditions of consent. The supplementary assessment should read in conjunction with the original assessment report. A 'track changes' version of the amended conditions is provided at **Attachment A**. A 'clean' copy of the amended conditions for inclusion by the HCCRPP in the determination have been provided at **Attachment B**.

Reasons For Deferral

"The panel agreed to defer the determination of the above matters until an updated Clause 4.6 variation in relation to building height is received from the applicant as the Panel cannot legally determine the application with the information provided".

Terms of Deferral

'When the information is received, Council is to prepare an addendum assessment report.'

The Panel expects revised information as referred to above be submitted to Council by COB Wednesday 22 June and an addendum assessment report to be prepared by Friday 24 June.

If revised information from the applicant is not provided within one week the Panel may move to determine the DA based on the information currently at hand.

When this information has been received, the panel will determine the matter electronically.

The decision to defer the matter was unanimous".

Response to matters raised by the HCCRPP

Clause 4.6 Exceptions to development standards

In light of the matters raised by HCCRPP the applicant has reviewed the formal written request to vary Clause 4.3 'Height of buildings' under Clause 4.6 'Exceptions to development standards' of the NLEP 2012. In this respect, the applicant has amended written request prepared by SLR, now dated June 2022, and is attached at **Appendix C** of this report.

It is noted that the amended Clause 4.6 Variation refers to the most recent set of drawings associated with the development application. Having regard to the reasons for deferral, the applicant has included a revised 'Table 1 Proposed Height Variation' which specifies the height variation in metres from existing ground level and reduced level to Australian Height Datum (AHD). It is further noted that the revised table now clearly details the numerical value and percentage variation inclusive of lift overruns, mechanical plant, and rooftop plant/architectural features as detailed below:

Table 1 Proposed Height Variation

NLEP Height Control (Measured from existing ground level)	Proposed Height (metres from existing ground level)	Reduced Level (AHD)	Variation (m) to NLEP	Variation (%) to NLEP	Area of site impacted (%)
East Tower					
90 metres	<u>Lift Overrun</u> 106.78 metres	<u>Lift Overrun</u> RL109.88	16.78m	18.6%	0.2%
	<u>Mechanical Plant</u> 106.28 metres	<u>Mechanical Plant</u> RL109.38	16.28m	18.0%	0.3%
	<u>Rooftop Plant/ Architectural Roof Feature</u> 105.45 metres	<u>Rooftop Plant/ Architectural Roof Feature</u> RL108.55	15.45m	17.2%	0.9%
	<u>Level 30</u> 101.53 metres	<u>Level 30</u> RL104.63	11.53m	12.8%	6% (approx.)
West Tower					
90 metres	<u>Lift Overrun</u> 100.58 metres	<u>Lift Overrun</u> RL103.68	10.58m	11.7%	0.2%
	<u>Rooftop Plant/ Architectural Roof Feature</u> 99.25 metres	<u>Rooftop Plant/ Architectural Roof Feature</u> RL102.35	9.25m	10.3%	0.8%
	<u>Level 28</u> 95.33 metres	<u>Level 28</u> RL98.43	5.33 metres	5.9%	7% (approx.)

Overall, it is considered that the minor changes remain procedurally consistent with the jurisdictional requirements of a formal Clause 4.6 written request. It is noted that reference to superseded plans has been omitted from the document and the applicant has sought to provide a clear breakdown of height exceedance that applies to the rooftop elements including lift overrun, plant infrastructure, and architectural roof features.

It is noted that the height exceedance as originally assessed remains unchanged and that the current amended plans were assessed in term of their height variations, however Table 1 now provides a distinction of all the relevant rooftop features.

It is noted that Councils assessment of the formal Clause 4.6 written request remains unchanged as the heights including rooftop features and lift overrun had been correctly identified and considered. Council is satisfied that the applicant's written request has adequately addressed the matters required (ccl4.6(4)(a)(i) to be demonstrated and that the request to vary the height development standard with the Newcastle LEP 2012 can be supported as the proposal continues to achieve the objectives of the height development standard and the zoning objectives and is considered to be in the public interest.

As advised by CN the applicant has also amended the formal written request to vary Clause 7.4 'Building separation' under Clause 4.6 'Exceptions to development standards' to include the amended dates and reference to the recent set of drawings. In this respect, the applicant has amended the formal request prepared by SLR, and is now dated June 2022, and is attached at **Appendix D** of this report.

Additional, Amended, and Proposed Draft Conditions:

Condition 1 – Approved Documentation

Amended to include 'Vertical' Transport Services Concept Report.

Conditions 3 – Amended

Roof water from the proposed new work is to be directed to the proposed water tanks (2) with a total minimum capacity of 20,000 litres and being reticulated to landscaping irrigation on the podium level and car park rooftop recreational area, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be designed accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.

Comment: This standard condition has been amended to provide more specific requirements that relate to the subject proposal.

Condition 7 – Deleted

~~The developer will be required to plant 5 trees as per the latest standard drawings for commercial street tree planting. Full details are to be included in the documentation for a Construction Certificate application.~~

~~Note: The developer is required to arrange a meeting with City Greening prior to the planting of trees to assess the compliance of stock with AS2303-2018, Tree Stock for Landscape Use and the compliance of the planting locations with standard drawing "A3003A"~~

Comment: This condition has been deleted as it is dealt with under previous condition 11 (now 10).

Condition 10 (Now condition 9) – Amended

Parking accommodation is to be provided in the multi-level carpark for a minimum of 697 vehicles comprising 186 allocated to occupants of Stage 3 commercial building, 35 commercial/retail, 440 residential and 36 residential visitor spaces in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

Comment: The condition has been amended to reflect the correct car parking numbers and to

provide further clarification of parking mix.

Condition 16 (Now condition 15) – Amended

The applicant is to comply with all of Hunter Water's requirements to provide the development with water supply and sewerage services. A copy of Hunter Water's compliance certificate (*Hunter Water Act 1991* - Section 50) must be submitted with the Construction Certificate application.

Comment: The previous condition incorrectly included a sperate condition. This separate condition has been omitted.

Condition 28– (Now condition 27) - Amended

Prior to the release of the Construction Certificate the proposed waste management is to be carried out in accordance with the Waste Management Plan. The recommendations of the report shall be included on the Construction Certificate drawings.

Comment: The condition has been updated to reflect the submitted waste management report.

Condition 29 (Now condition 28) – Amended

A variation to the Aboriginal Heritage Impact Permit (AHIP No. C0003418) is required to be obtained from Heritage NSW under Part 6 of the National Parks and Wildlife Act 1974 prior to the commencement of any ground disturbance works, unless Heritage NSW provides written confirmation that the existing AHIP can apply to the excavation works for the residential towers. The AHIP is to include provisions for the completion of Aboriginal archaeological investigation in the form of test excavations and (if required) further salvage activities.

Comment: The condition has been amended to omit reference to the supersede basement level.

Condition 30 (Now condition 29) - Amended

The Applicant is to obtain an approved Section 140 excavation permit under the *Heritage Act 1977* prior to any ground disturbing activities commencing, unless Heritage NSW provides written confirmation that the existing endorsed s139(4) exception (dated 8 May 2018) can apply to the excavation works for the residential towers. This application will need to clearly outline what mitigation measures are proposed to avoid harm to any significant deposits. In the event State significant archaeological remains may be harmed, these remains are to be avoided and protected during these works.

Comment: The condition has been amended to omit reference to the supersede basement level.

Condition 55 – Deleted

~~All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.~~

Comment: This condition has been included twice (previous condition 46).

Condition 66 (Now condition 64) - Amended

The Developer is to undertake the following works within Hunter Street adjacent to the site generally in accordance with the City Centre Public Domain technical manual, at no cost to Council and in accordance with Council's guidelines and design specification:

- a) Kerb and gutter replacement
- b) Full width footway paving
- c) Associated drainage works
- d) Regulatory signage
- e) Street tree planting in gap-graded structural soil vaults
- f) Street Lighting incorporating Council's Smart Poles.
- g) Street furniture - bins, bicycle racks

Comment: The condition has been amended to reflect new public domain requirements.

Condition 80 (Now condition 78) - Amended

Parking accommodation is to be provided in the multi-level carpark for a minimum of 697 vehicles comprising 186 allocated to occupants of Stage 3 commercial building, 35 commercial/retail, 440 residential and 36 residential visitor spaces and such being available for use prior to the issue of any Occupation Certificate (whether interim or final) for the development.

Comment: The condition has been amended to reflect the requirements of Stage 3.

Schedule 3 – To include Transport for NSW

Schedule 4 – Reasons for the determination & consideration of community views.

Comment: The schedules have been amended to included Transport for NSW amended requirements.

Conclusion

The above supplementary report, in combination with the revisions to the draft conditions by the Regional Planning Panel and the City of Newcastle, comprehensively addresses the concerns and issues arising from the determination meeting.

It is recommended that the application be supported on the combined basis of the 'Council Assessment Report' and this Supplementary report subject to the revised draft conditions of consent.

Attachment A – Amended conditions – 'tracked changes'

Attachment B – Amended conditions of consent

Attachment C – Amended Clause 4.6 Variation 'Building Height'

Attachment D – Amended Clause 4.6 Variation 'Building Separation'.

Attachment E – RFI response prepared by SLR