

DATE OF DETERMINATION	4 July 2022
DATE OF PANEL DECISION	1 July 2022
PANEL MEMBERS	Stephen Gow (Chair), Clare Brown, Susan Budd and John Mackenzie
APOLOGIES	Peta Winney-Baartz
DECLARATIONS OF INTEREST	<p>Alison McCabe declared a conflict of interest as the applicant was a client of her company on a separate non-related project that has been completed in the last few years.</p> <p>Sandra Hutton declared a conflict of interest as she was working for ADW Johnson when this application was made, and the developer is a client of ADW Johnson in relation to an unrelated site.</p> <p>Juliet Grant declared a conflict of interest as an employee at her company undertook a peer review in relation to this site on behalf of the Hunter and Central Coast Development Corporation in 2018.</p>

Papers circulated electronically on 14 June 2022.

MATTER DETERMINED

PPSHCC-104 – Newcastle – DA2021/01530 at 854 and 874 Hunter St, Newcastle West – mixed use development (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of two written requests from the applicant, made under cl 4.6 (3) of the Newcastle Local Environmental Plan 2012 (LEP), that have demonstrated that:

- compliance with cl. 4.3 (Height of Buildings) and cl. 7.4 (Building separation) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standards

the Panel is satisfied that:

- the applicant's written requests adequately address the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings) and cl. 7.4 (Building separation) of the LEP and the objectives for development in the B3 Commercial Core zone; and
- the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height and the Clause 4.6 variation to building separation; and approve the application for the following reasons:

1. The proposed mixed use development is significant within Newcastle City's West End Precinct and will contribute to its transition and revitalisation. The proposal allows for the delivery of the fourth and final stage of the redevelopment of the former Co-operative Store site in line with the 2018 Concept plan approval (as modified). The built form outcome aligns with the scale and height of development previously approved via the Concept Plan approval as modified through to June 2022. The proposed development is permissible in the B3 Commercial Core zone under the *Newcastle Local Environmental Plan 2012* (NLEP) and is compliant with the Concept Plan (as modified) submitted and determined concurrently with this application.
2. Subject to the recommended conditions, the proposed development is consistent with the objectives of the applicable environmental planning instruments, being the NLEP and applicable State Environmental Planning Policies.
3. With the exception of the height of the buildings and some building separation distances, which are subject to the approved cl. 4.6 variations under the NLEP, the design is generally consistent with Council's development standards.
4. The proposed development is also, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan (NDCP) 2012. While some surplus car parking provision remains, this is considered acceptable in Council's assessment.
5. The proposal has a number of benefits, including incorporating the existing Newcastle Bus Interchange building located on the ground floor for additional carparking, heritage interpretation, commercial use and a podium level amenity area. The proposed development is considered to be of an appropriate scale and form for the site and the desired future character of the locality. The design is also the result of an accepted alternative design excellence process. Council's Urban Design Review Panel supports the proposal in terms of its design quality including the redistribution of height and built form modulation at the upper floors of the two towers.
6. The proposed development will incorporate appropriate management and mitigation of potential environmental impacts, including through conditions of consent; and will not result in unacceptable adverse impacts upon the natural or built environments.
7. The Panel notes that only one public submission was received in connection with the adequacy of parking provision for the project. As noted above, off-street parking proposed is in excess of the NDCP requirements, together with substantial bicycle storage facilities. Moreover, a Green Travel Plan is required as a condition of consent to encourage the use of alternative modes of transport by building occupants.
8. In conclusion, the proposed development is a suitable and planned use of the site, with social and economic benefits for the community. The Panel considers that the approval of this application is in the public interest.

CONDITIONS

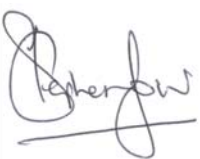



The Development Application was approved subject to the conditions attached to the Council Addendum Assessment Memorandum of 24 June 2022.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Parking
- Traffic congestion

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report. The Panel notes that in addressing these issues, off-street parking proposed is in excess of the Council's DCP requirements, together with substantial bicycle storage facilities. Moreover, a Green Travel Plan is required as a condition of consent to encourage the use of alternative modes of transport by building occupants.

PANEL MEMBERS	
 Stephen Gow (Chair)	 Susan Budd
 Clare Brown	 John Mackenzie

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-104 – Newcastle – DA2021/01530
2	PROPOSED DEVELOPMENT	Mixed used development, including shop top housing with 352 dwellings, ground floor retail premises, and commercial premises.
3	STREET ADDRESS	Lot: 2 DP: 1271240 & Lot: 11 DP: 1270693, 854 Hunter Street Newcastle
4	APPLICANT OWNER	Doma Interchange Development Pty Ltd C/ - SLR Consulting Australia Pty Ltd Doma Interchange Development Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none">• Environmental planning instruments:<ul style="list-style-type: none">○ State Environmental Planning Policy (Planning Systems) 2021.○ State Environmental Planning Policy (Resilience and Hazards) 2021 for consideration of development on land within the coastal environment area.

		<ul style="list-style-type: none"> ○ Environmental Planning Policy (Resilience and Hazards) 2021 for consideration of whether the land is contaminated, and if contaminated, suitable or the purpose of development. ○ State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development in relation to the advice of an urban design review panel has been satisfied. ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to development likely to affect an electricity transmission or distribution network ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to traffic generating development. ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ Newcastle Local Environmental Plan 2012 • Draft environmental planning instruments: Draft Remediation of Land SEPP. • Development control plans: <ul style="list-style-type: none"> ○ Newcastle Development Control Plan 2012 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Clause 64 (Consent authority may require upgrade of buildings) • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 14 June 2022 • Clause 4.6 variation request for building separation: 21 June 2022 • Clause 4.6 variation request for building height: 21 June 2022 • Council addendum assessment memo: 24 June 2022 • Written submissions during public exhibition: one
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 9 December 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen Gow (Chair), Clare Brown, Susan Budd, Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens, Damian Jaeger, Brian Cameron, David Ryner and Olivia Magrath ○ <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley • Site inspection and briefing: 7 March 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: : Stephen Gow (Chair), Clare Brown, Susan Budd

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Holly Hutchens, Damian Jaeger, Brian Cameron and William Wang ○ <u>Department staff</u>: Leanne Harris <ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 20 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen Gow (Chair), Clare Brown, Susan Budd, Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens, William Wang, Amy Ryan, Damian Jaeger, David Ryner, Elle Durrant, Olivia Magrath ○ <u>Department staff</u>: Leanne Harris and Lisa Foley • Applicant Briefing: 20 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen Gow (Chair), Clare Brown, Susan Budd, Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens, William Wang, Damian Jaeger, David Ryner, Elle Durrant, Olivia Magrath ○ <u>Department staff</u>: Leanne Harris and Lisa Foley ○ <u>Applicant representatives</u>: Geoff Dimarhos, Chris Farrington, Simon Swaney, Kris Stone, Jill Woodley, Melissa Thomas and Grace Moses <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p> • Final briefing to discuss council's recommendation: 27 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen Gow (Chair), Clare Brown, Susan Budd and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens, Brian Cameron, Rajnesh Prakash, Damian Jaeger, Elle Durrant, Amy Ryan, Olivia Magrath and Ellise Redriff ○ <u>Department staff</u>: Leanne Harris and Lisa Foley
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Addendum Assessment Memorandum