

## DETERMINATION AND STATEMENT OF REASONS

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	4 July 2022
<b>DATE OF PANEL DECISION</b>	1 July 2022
<b>PANEL MEMBERS</b>	Stephen Gow (Chair), Clare Brown, Susan Budd and John Mackenzie
<b>APOLOGIES</b>	Peta Winney-Baartz
<b>DECLARATIONS OF INTEREST</b>	<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-105 – Newcastle – MA2021/00450 at 854 & 874 Hunter St and 4 Stewart Ave, Newcastle West – modification to approved staged concept 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.

#### Development application

The Panel determined to approve the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

1. The proposed modified development, subject to the recommended conditions, is consistent with the objectives of the relevant environmental planning instruments, being Newcastle Local Environmental Plan 2012 and applicable State Environmental Planning Policies and Draft State Environmental Planning Policies.
2. The development is also, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012. While some surplus car parking provision remains, this is a reduction from a previous modification of this proposal approved in June 2020 and is considered acceptable in Council's assessment.
3. The proposed development as modified remains of an appropriate scale and form for the site and the desired future character of the locality. In particular, Council's Urban Design Review Panel supports the modified proposal in terms of its design quality.
4. 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.

5. The modified development proposal is considered substantially the same as the development originally approved. It is also consistent with the original Panel's reasons for consent, which anticipated that the density, bulk, height, and scale of the built form elements of the project would continue to be refined. The modified application continues to provide a mixed use development which will support both residential development and commercial activity within proximity to public transport infrastructure. Accordingly, the proposed modification is considered satisfactory in this regard.
6. In conclusion, the proposed modified development remains a suitable and planned use of the site, with social and economic benefits for the community. The Panel notes that no public submissions were received in connection with the application and considers that its approval is in the public interest.

### CONDITIONS

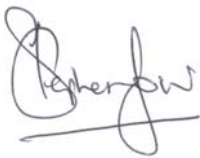



The Modification Application was approved subject to the conditions attached to the Council Addendum Assessment Memorandum with the following amendments:

- Condition 2 – amendment of approved plan details
- Condition 3A – deleted
- Condition 7 – correction of surplus parking spaces
- Condition 9 – modified to refer to lift overrun heights

The approved set of conditions is attached at Schedule 2.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-105 – Newcastle – MA2021/00450
2	PROPOSED DEVELOPMENT	Section 4.55(2) Modification to Concept Approval DA2018/01109.01 (as modified) for a mixed use development comprising retail, commercial, public spaces, residential apartments and associated car parking
3	STREET ADDRESS	Lots 2 & 3 DP1271240 No.854 Hunter Street Newcastle West, Lot 11 DP1270693 No.874 Hunter Street Newcastle West and Lot 300 DP1255289 No.6 Stewart Avenue Newcastle West
4	APPLICANT OWNER	Doma Interchange Development Pty Ltd C/ - SLR Consulting Australia Pty Ltd Doma Interchange Development Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
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 (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Newcastle Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Draft Remediation of Land SEPP.</li> <li></li> <li>Development control plans: <ul style="list-style-type: none"> <li>Newcastle Development Control Plan 2012</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000 / 2021</i>: Nil</li> <li>Coastal zone management plan: Nil</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	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 14 June 2022</li> <li>Council addendum assessment memo: 24 June 2022</li> <li>Written submissions during public exhibition: nil</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 9 December 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Stephen Gow (Chair), Clare Brown, Susan Budd, Peta Winney-Baartz and John Mackenzie</li> <li><u>Council assessment staff</u>: Holly Hutchens, Damian Jaeger, Brian Cameron, David Ryner and Olivia Magrath</li> <li><u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley</li> </ul> </li> <li>Site inspection and briefing: 7 March 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: : Stephen Gow (Chair), Clare Brown, Susan Budd</li> </ul> </li> </ul>

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

SCHEDULE 2	
<p style="text-align: center;"><b>SCHEDULE 1</b></p> <p><u>Water NSW Conditions</u></p> <p>1) Conditions issued by Water NSW dated 12 December 2018 (Ref: IDAS 1111380) and reproduced below shall form part of this Development Consent:</p> <p><u>Definitions:</u></p> <p><i>Bore</i> means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means.</p> <p><i>Licence</i> means a licence in force under Part 5 of the <i>Water Act 1912</i>.</p>	

#### Note

Groundwater in the area is currently subjected to an embargo under section 113A of the *Water Act 1912*.

Following exemptions apply for this development:

A dewatering activity that removes less than 10 megalitres of groundwater, or a dewatering activity which takes place over a period of less than five (5) weeks.

- a) Applicant must apply and obtained the licence for the take of groundwater.
- b) Applicant must estimate the total volume of groundwater to be extracted and include with details and calculation methods.
- c) Applicant must secure an entitlement if exemptions do not apply to the development.
- d) The applicant must provide the details of method of disposal of extracted water and provide evidence of written permission to dispose from the relevant regulatory authority.
- e) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of construction and decommissioning is to be identified in the documentation. Refer to [https://www.water.wa.gov.au/data/assets/pdf\\_file/0005/1796/Minimum-construction-guidelines-for-water-bores-in-Australia-V3.pdf](https://www.water.wa.gov.au/data/assets/pdf_file/0005/1796/Minimum-construction-guidelines-for-water-bores-in-Australia-V3.pdf)
- f) Following cessation of the dewatering operations, the applicant must submit the completion report which must include:
  - detail of the volume of water taken
  - compliance with terms and conditions of the licence

#### Plans and Documentation

- 2) The development shall be undertaken substantially in accordance with the details and specifications set out in:

#### Architectural Plans:

Architectural Plans prepared by BatesSmart Architecture, Ref S12133, listed as follows:

Architectural Drawings	Rev.	Name of Plan	Date
A01.MP.000	A	Location Plan	18.9.18
A01.MP.001	A	Site Analysis	18.9.18
A01.MP.100	2	Concept Masterplan Site Strategy Building Envelopes Setbacks	12.04.22
A03.MP.201	2	L00 Plan Ground Concept	13.04.22
A03.MP.202	2	L02 Lower Levels Concept Plan	13.04.22
A03.MP.206	2	L06 Upper Levels Concept Plan	13.04.22
A07.MP.300	D	Elevation North	22.06.22
A07.MP.301	D	Stewart Avenue Elevation East Elevation	22.06.22
A07.MP.302	D	Hunter South Elevation South Elevation	22.06.22
A07.MP.303	D	Elevation West	22.06.22
A02.MP.400	D	Section North/South Section through West Tower & Podium	22.06.22
A08.MP.401	D	East-West Indicative Section Hunter St	22.06.22

#### Landscape and Public Domain Plans:

Landscape plans prepared by Sydney Design Collective, listed as follows:

Drawing No.	Rev.	Name of Plan	Date
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L001	E	Overall Site Strategy	18/9/18
L002	E	Landscape Plan: Ground Floor Design and REF Update	18/9/18
L003	E	Landscape Sections: Ground Floor Design and REF Update	18/9/18
L004	E	Brewery Lane	18/9/18
L005	E	Cooper Street	18/9/18
L006	E	Interchange Square-Temporary Park Light Rail East	18/9/18
L007	E	Temporary Park Light Rail West and Bus Stop Interchange	18/9/18

**Future Land Ownership:**

Future Land Ownership Plans prepared by BatesSmart Architecture, listed as follows:

Drawing No.	Rev.	Name of Plan	Date
A01.MP.002	A	L00 Final Land Use Plan	10/10/18
A01.MP.003	A	Upper Level Final Land Use Plan	10/10/18
A02.MP.005		North/South Subdivision Section Final Land Use Plan	10/10/18

**Stormwater:**

Stormwater Drainage Concept Plans prepared by Services 4 Buildings Pty Ltd, listed as follows:

Drawing No.	Rev.	Name of Plan	Date
S4B17004101_SW-000	A	Cover Sheet, Legend and Drawing Schedule	15.01.19
S4B17004101_SW-101	A	Ground Level Stormwater Drainage Layout	15.01.19
S4B17004101_SW-102	A	Level 1 Stormwater Drainage Layout	15.01.19
S4B17004101_SW-103	A	Level 2-3 Stormwater Drainage Layout	15.01.19
S4B17004101_SW-104	A	Level 4 Stormwater Drainage Layout	15.01.19
S4B17004101_SW-105	A	Level 5-11 Stormwater Drainage Layout	15.01.19
S4B17004101_SW-106	A	Level 12 Stormwater Drainage Layout	15.01.19
S4B17004101_SW-107	A	Roof Stormwater Drainage Layout	15.01.19

**Planning Documents Relied Upon for Original Concept Application:**

Concept Masterplan Architectural Design Report 'The Store', Ref. S12133, dated September 2018, prepared by BatesSmart Architecture;

Statement of Environmental Effects, dated 12 October 2018, prepared by KDC Pty Ltd;

Clause 4.6 Statement regarding Building Separation, Ref 18165\_4.6, dated 20 September 2018, prepared by KDC Pty Ltd;

Clause 4.6 Statement regarding Building Height, Ref 18165\_4.6, dated 20 September 2018, prepared by KDC Pty Ltd;

Site Survey Plan, dwg. 1800288DPA, Ref DP1245750, dated 20 July 2018, prepared by David Luke Sullivan;

Response to Additional Information Request, prepared by KDC Pty Ltd, Ref. 18165, dated 1 February 2019;

Response to Additional Information Request, prepared by KDC Pty Ltd, Ref. 18165, dated 22 February 2019;

Government Architects' Office Letter, dated 16 July 2018, prepared by Government Architect New South Wales;

Traffic and Transport:

Email from John Benedetti, Transport for NSW, to Sean Kearney, DOMA Group, dated 14 February 2019, providing endorsement of 'Kiss N Ride' Layout;

'Kiss N Ride' Layout Plan, Ref. 22-19657, dwg. SK476, dated 31 January 2019, prepared by GHD;

Traffic Impact Assessment Ref: 2219657 dated September 2018, prepared by GHD;

Addendum to Traffic Report, Ref 2219657-13991, dated 22 February 2019, prepared by GHD;

Traffic Movement Diagram, dwg. A02.MP.103, 'Ground Traffic Movements', dated 12 July 2018, prepared by BatesSmart Architecture.

Conditions of Approval: Newcastle Bus Interchange, Ref:2TP-FT-398/1.0, prepared by Transport for NSW;

Newcastle Bus Interchange Review of Environmental Factors, dated July 2017, prepared by Transport for NSW.

Flooding and Stormwater:

Flood Risk Assessment, Ref DXW: L.N21049.005.docx, dated 23 August 2018, prepared by BMT WBM Pty Ltd;

Civil Drainage Plan, dwg. 22-19657-C035, Rev A, prepared by GHD (undated)

Ground Issues:

Report on Preliminary Geotechnical Investigation, Ref 81811.01, dated 26 May 2016, prepared by Douglas Partners;

Additional Geotechnical Advice, dated 20 February 2019, prepared by ADE Consulting Group.

Heritage and Archaeology:

Statement of Heritage Impact, Ref 18216, dated 24 September 2018, prepared by Artefact Heritage;

Heritage Management Plan, dated August 2018, prepared by Artefact Heritage;

Documentation Lodged with Aboriginal Heritage Impact Permit (AHIP) Application with cover-letter from Transport for NSW, Ref. 5938374\_1, dated 20 December 2017;

Aboriginal Heritage Impact Permit, AHIP number C0003418, AHIMS Permit ID 4328, commencing 22 March 2018, issued by the Office of Environmental and Heritage;

Other Planning Documents:

Pedestrian Wind Environment Statement Ref WE353-01F02 (Rev2), dated 4 September 2018, prepared by Windtech;

Certificate of Title and Deposited Plan, Lot 100 DP 1245750, provided by NSW Land Registry Services, dated 27 August 2018;

CPTED Statement, Ref 18165\_CPTED, dated September 2018, prepared by KDC Pty Ltd;

15B Certificate, Ref LE/18888, dated 28 April 2017, prepared by Subsidence Advisory NSW;

Site Management Plan, Ref. 2.1.200, dated 24 May 2018, prepared by Bloc Business Management System Urban Design Consultative Group Meeting Minutes, dated 18 September 2018 and 11 December 2018, prepared by Newcastle City Council.

Excerpt from documents detailing 'Future Proof Zone';

Design Review Panel Presentations, dated 15 May 2018, 29 May 2018, 6 July 2018, and 7 August 2018, prepared by Bates Smart Architecture;

***Condition 2) Amended 27 June 2022***

Staging

- 3)** A separate development application is to be submitted to and approved by the consent authority in respect of each stage of the development.

**3A) Deleted**

*Condition 3A) Deleted 27 June 2022*

- 3B)** Subject to Condition 2A above, the future buildings subject to detailed DA(s) shall be located within the envelopes and the Panel would expect refinement, modulation and adjustment within the envelopes (with minor variations where justified and substantially the same), in addressing and responding to:

- a) Design Excellence;
- b) Urban Design considerations and relationship with streets, lanes, public domain and surrounding existing and potential future buildings, including heritage items;
- c) Internal amenity;
- d) Impacts on surrounding land; and
- e) SEPP 65 / ADG consideration, guidelines and compliance.

- 4)** The development shall be undertaken in the following sequential order:

Stage 1: Multi Storey Carpark

**Stage 3: Commercial Building**

**Stage 4: Mixed Use (Residential) Building**

**Design Process**

- 5)** The terms of the Government Architect NSW design competition waiver is to be complied with, including a design integrity process that extends from design development through to construction. Any further design development for each stage of the development is to be reviewed by the relevant Design Review Panel.

**Consistency with Newcastle Bus Interchange Project**

- 6)** The Concept Plan shall be in compliance with the approved layout and Conditions of Approval issued for the Newcastle Bus Interchange by Transport for NSW on 3 November 2017, unless modification to the terms of approval has been granted.

**Floor Area**

- 7)** This consent permits a maximum gross floor area of 58,938m<sup>2</sup> over all stages, inclusive of approved amenities for the Newcastle



Bus Interchange (NBI).

The allocation of gross floor area across the site shall generally be:

Stage 3 (Commercial Building):16,689m<sup>2</sup>

Stage 4: (Mixed Use/Residential Building): 40,781m<sup>2</sup>

Surplus Parking (89 spaces): 1,164m<sup>2</sup>

Approved NBI Amenities:120m<sup>2</sup>

*Condition 7) Amended 27 June 2022*

- 8) This consent permits a maximum floor space ratio on the total site of 4.9:1.

#### Building Height

- 9) This consent permits a maximum overall building height of RL57 for the Stage 3 (commercial) building, for Stage 4 a height of RL 109.88 (lift overrun) for the east residential tower, and a height of RL103.68 (lift overrun) for the west residential tower.

*Condition 9) Amended 27 June 2022*

#### Built Form

- 10) The development application for the Stage 4 mixed use (residential) building shall be accompanied by:
- a) A detailed assessment undertaken by a registered architect which confirms compliance of the residential towers with the provisions of State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) and the Apartment Design Guide.
  - b) Details regarding the landscaped treatment of the communal open space area to be located on the roof of the multi storey carpark, together with access arrangements for residents.

#### Sydney Trains Requirements

- 11) Any structure within 25 metres of the rail corridor shall have its Geotechnical, Structural and Drainage Engineering documentation, and its Construction Methodology documentation endorsed by Sydney Trains prior to the issuing of any relevant Construction Certificate for that stage.

#### Traffic and Access

- 12) Prior to the issue of an interim or final occupation certificate (whichever occurs first) for the development the subject of this development application the developer is to obtain the consent of Roads and Maritime Services pursuant to Section 87 Roads Act 1993 - Traffic Control Facilities, in relation to Hunter Street traffic signal upgrade works.
- 13) An updated Transport Impact Assessment, in accordance with the Roads and Maritime Services Guide to Traffic Generating Developments is to be submitted with the development application for the proposed Stage 4 works (retail/commercial/residential mixed use building), confirming the accuracy of the base case and the ultimate scenario and identify any road upgrade works which may be required.
- 14) The proposed extension of Beresford Lane and the connecting road to the existing Hunter Street traffic signals is to be the subject of an appropriate 'right-of-public- access' and the necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act 1919 is to be registered with Property NSW prior to the issuing of any Occupation Certificate (whether interim or final) for any stage of the development. The instrument is to provide that the right-of-public-access is unable to be relinquished, varied or modified without the concurrence of the City of Newcastle.

## Car Parking

- 15) The multi-level car park, approved under DA2018/00879, is to be completed and operational prior to the issue of any Occupation Certificate (whether interim or final, whichever occurs first) for any other stage of the development.
- 16) A restriction shall be created on the title of the land which shall provide for the continued use of carparking spaces within the multi level carpark by the occupants and visitors of the Stage 3 (commercial) and Stage 4 (retail/commercial/residential mixed use) buildings. The necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act 1919 is to be registered with Property NSW prior to the issuing of any Occupation Certificate (whether interim or final) for the development. The instrument is to provide that the restriction is unable to be relinquished, varied or modified without the concurrence of the City of Newcastle.
- 17) On-site car parking accommodation is to be allocated to the different land uses within the development on the basis of one space per 75m<sup>2</sup> for the Commercial Building (stage 3) and the specific parking rates that are detailed in the Newcastle Development Control Plan 2012.

*Condition 17) Amended 27 June 2022*

- 18) On-site parking accommodation is to be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of the Newcastle Development Control Plan 2012.
- 19) Bicycle parking and motorcycle parking shall be provided for each stage of the development in accordance with the requirements of Section 7.03 of NDCP 2012 or the applicable standard at the date of lodgement of the application. Provision shall also be made for end of trip facilities including showers, change rooms and lockers.
- 20) A detailed Green Travel Plan in accordance with Element 7.03 'Traffic, Parking and Access' of Newcastle Development Control Plan 2012 is to be submitted to and approved by Council prior to the issue of any Occupation Certificate (whether interim or final) for each Stage of the Concept. The Green Travel Plan shall encourage use of alternative modes of transport and include Public Transport Routes and Bicycle Network Plans. The Green Travel Plan is to be prepared and made available to the new residents and commercial/retail premises tenants. The Public Transport and Bicycle Network Plans are to be installed in common areas of the proposed buildings prior to the issue of final Occupation Certificates.

## Loading/Servicing/Waste

- 21) The design of the development is to be modified to provide for all loading / servicing activity (including waste collection) associated with the development to be undertaken either within designated loading dock areas and/or kerbside in an approved and designated loading zone. The design is to ensure that all service vehicle movements are to be capable of forward entry and exit, ie. without the need to reverse into vehicular traffic flows. Required modifications are to be approved by Council before being implemented.

This requirement may be waived if satisfactory alternative arrangements are made, to the satisfaction of Council's Regulatory, Planning and Assessment Unit, at the detailed DA stage. If this is pursued, details shall include realistic traffic projections of Beresford Lane (including potential future development of the site to the south), options to minimise traffic queuing and a Servicing Management Plan that considers the use of the loading areas, hours of use, truck size, alternative arrangements and any other measures to minimise traffic conflicts.

- 22) Development Applications for each stage shall be accompanied by a Waste Management Plan confirming the ongoing waste storage and collection arrangements for the development.

## Section 138 Application

- 23) A separate application is to be lodged and consent obtained from Council for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993, before the issue of a Construction Certificate for the construction of any of the commercial/retail components of the proposed development or, alternatively, subject to other satisfactory arrangements being confirmed in writing from Council.

## Service Infrastructure

- 24) The development application for each stage shall be accompanied by documentation from service and telecommunication providers which details the available network capacity and upgrades required and which confirms that satisfactory arrangements can be made for the provision of services to the development, including the payment of any contributions towards necessary upgrades.

- 25) In the event that a public or private utility service or infrastructure item is encountered during the demolition stage of the development the developer shall consult the relevant utility service provider and negotiate an appropriate commercial arrangement for the termination of that service and if required, relocation of that service to a location suitable for the service provider. The developer shall be responsible of the obtaining of any necessary approvals.

#### Construction Impacts

- 26) A dilapidation report prepared by a suitability qualified person is to be submitted to the Principal Certifying Authority prior to the commencement of any excavation or construction works for each stage. The dilapidation report is to document and include photographs of the current structural condition of the adjoining public infrastructure and roads.
- 27) Prior to any site works commencing for each stage, the Developer is to prepare and have approved by Council a Construction Traffic Management Plan (CTMP). The CTMP is to include provisions for the parking of construction vehicles and the transportation of construction personnel to the site, if such parking is located remote from the site.
- 28) The CTMP is to be prepared by an appropriately qualified person (Roads & Maritime Services-accredited) with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices – traffic control for works on roads.
- 29) An approved CTMP is to be maintained on site during all site works and be made available to Council Officers on request.
- 30) The development application for each stage shall be accompanied by a detailed Construction Management Plan (CMP) to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The CMP shall include, but not be limited to:
- a) Details of the manner in which disruption to all surrounding areas will be mitigated;
  - b) Location of material storage and temporary storage sheds;
  - c) Details of site fencing/hoarding, excavation and shoring; and
  - d) Measures to minimise potential odour associated with the operation of machinery or other potential odour sources.
- 31) The Construction Management Plan for each stage shall include a Noise and Vibration Management program prepared by a suitably qualified acoustical consultant which details:
- a) Potential construction noise and vibration impacts;
  - b) Measures for minimising the impact of the construction phase on the amenity of the neighbourhood, generally in accordance with 'AS 2436-2010 - Guide to Noise and Vibration Control in Construction, Demolition and Maintenance Sites' and the Environment Protection Authority's 'Interim Construction Noise Guideline' and 'Assessing Vibration: a technical guideline'; and
  - c) Measures to mitigate dust impacts arising from demolition and construction activities.

#### Acoustic Impacts

- 32) The development application for each stage must provide a report from a suitably qualified acoustical consultant assessing the impacts of existing urban noise levels on the buildings proposed in the respective stage. The report shall include acoustic measures to ensure internal noise levels within the proposed buildings are in accordance with Australian Standard 'AS 2107 – 2000 Acoustics – Recommended design sound levels and reverberation times for building interiors'.

#### Section 7.12 Contributions

- 33) All public domain works within private property are to be fully funded by the developer and completed within the applicable stage.
- 34) Pursuant to Section 4.17(1) of the Environmental Planning and Assessment Act 1979 development applications for any stage will be required to pay the applicable contribution as detailed in the 'The City of Newcastle Section 94A Development Contributions Plan 2009' or any other relevant contributions plan that may be applicable to the application.

## Public Domain

- 35)** The Developer is to undertake the following works within Hunter Street and Stewart Avenue, 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:
- Kerb and gutter replacement
  - Full width footway paving
  - Associated drainage works
  - Street tree planting in gap-graded structural soil vaults
  - Street furniture - bins, bicycle racks
- 36)** The reconstruction of Beresford Lane and Cooper Street being completed and operational prior to the issue of an interim or final occupation certificate (whichever occurs first) for the development the subject of this development application.
- 37)** Comprehensive engineering and landscape design plans and specifications for the works to be undertaken in the public road reserve are to be submitted for approval with the required application under Section 138 of the Roads Act 1993, such to be accompanied by the following documentation and additional details.
- *Road Design Plans*  
**Engineering Plans to comply with the following requirements:**
    - Plans to be accompanied by a pavement design report prepared and certified by a practising geotechnical engineer;
    - Footways to be generally high level and at 2% grade toward the kerb;
    - A separate linemarking and signposting plan (approved by the Newcastle City Traffic Committee to be included with the design plans).
  - *Land Management Plan*  
The Land Management Plan to nominate existing and proposed surface levels and provide full details of proposed erosion and sediment control measures to be implemented prior to, during and after construction. The required Plan to be prepared in accordance with the Department of Housing's Guidelines – Managing Urban Stormwater: Soils and Construction.
  - *Stormwater Drainage Plan*  
Street drainage is to be upgraded to cater for the local catchment 10% Annual Exceedance Probability (AEP) design flows as indicated on the Concept External Stormwater Upgrades plan prepared by Northrop Consulting Engineers (Drg. No. P-C-50.01, Revision 5, dated 20/11/17).
  - *Utilities Layout Plan*  
The Utilities Layout Plan to indicate the location of existing mains, associated installations and service conduits, together with any proposed utility alterations and installations in particular street lighting. Any required electricity substations, pumping stations or similar installations are to be located in public reserves and/or private land and are not to be located within road reserves.
  - *Set-out Layout Plan*  
The Set-out Layout Plan to indicate survey co-ordinates for set out points for kerbs, medians and lane lines
  - *Detailed Urban Design and Landscaping Plan (UDLP)*  
The UDLP shall detail:
    - i. the appropriateness of the proposed design with respect to the existing surrounding landscape, built form,

- behaviours and use-patterns
- ii. materials, finishes, colour schemes and maintenance procedures including graffiti control for new walls, barriers and fences
- iii. location and design of pedestrian and bicycle pathways, street furniture including relocated bus and taxi facilities, bicycle storage (where relevant), telephones and lighting equipment
- ii. landscape treatments and street tree planting to integrate with surrounding streetscape design detail that is sympathetic to the amenity and character of heritage items located within or adjacent to the Project site
- iii. opportunities for public art created by local artists to be incorporated, where considered appropriate, into the Project
- iv. total water management principles to be integrated into the design where considered appropriate
- v. design measures included to meet TfNSW's NSW Sustainable Design Guidelines - Version 4.0 (TP-ST-114)
- vi. identification of design and landscaping aspects that will be open for community input.

The UDLP is required to be prepared by a registered architect and/or landscape architect in consultation with relevant stakeholders and shall be endorsed by TfNSW's Urban Design Team and Council.

- 38) Street tree plantings are to be provided in Hunter Street and Stewart Avenue fronting the site generally at 10m spacings in accordance with Council's standards and soil specifications. The trees are to be advanced specimens in a minimum 300 litre pot size planted in tree vaults. The required plantings are to be undertaken in consultation with Council, with the trees certified by the supplier to comply with the current NATSPEC guideline with respect to root development, height, trunk diameter, branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003).
- 39) The street tree planting vaults are to be linearly connected by tree pits to maximise soil volume (structural soil) and allow for drainage, soil moisture and root control barriers. The design and construction of the planting vaults are to be undertaken at no cost to Council and under Council's direction. The separate approval from Council is to be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to commencement of those works.
- 40) All works within the public road reserve required by this consent are to be completed prior to the issue of any Occupation Certificate (whether interim or final, whichever occurs first) for any of the commercial/retail components of the proposed development.

#### European Built Heritage

- 41) The development application for each stage of development shall be accompanied by a Statement of Heritage Impact to address impacts associated with the detailed design of the Concept Plan.
- 42) The recommendations and considerations within the '*Statement of Heritage Impact*' (Artefact, 2018) including Section 8.2 'Recommendations' are to be addressed within each of the future development applications submitted in accordance within the Concept Plan.
- 43) The management recommendations of the '*Heritage Management Plan*' for the Newcastle Bus Interchange (Artefact, 2018b) shall be enacted before and during construction works.

#### Interpretation Plan

- 44) Before the issue of any Construction Certificate for any stage, an interpretation plan must be prepared by an experienced heritage interpretation practitioner and submitted to the written satisfaction of Council. The interpretation Plan shall be in accordance with the Heritage Council's "Interpreting Heritage Places and Items Guidelines" 2005. Written approval from Council is to be provided to the Certifying Authority. The plan must address the detail of the interpretive approach and content for the proposal, including identification of appropriate locations. This should occur at the design stage to ensure productive integration. The interpretive plan should include aspects which address the role of the Store building within the Newcastle City Centre Heritage Conservation Area and must make allowance for the display of any potential archaeology uncovered during the works. The Interpretation Plan must be implemented, with written confirmation from the Council, prior to the issue of an Occupation Certificate for any stage of the development.

#### Safety and Security

- 45)** Each stage of the development shall incorporate the principles and recommendations of 'Crime Prevention Through Environmental Design (CPTED) Statement' prepared by KDC (September 2018).
- 46)** The development application for any stage which includes a licensed premises must provide details of each licensed premises proposed, the location and scale of which shall be confirmed in consultation with the NSW Police and Council.

#### **Accessibility**

- 47)** Development Applications for new buildings on the site will be accompanied by adaptable building solutions addressing access for people with disabilities and the elderly.

#### **Signage**

- 48)** The location of signage shall be detailed as part of the development application for each stage or shall be the subject of a separate application, unless exempt. Signage should reflect an overall consistent graphic design approach. The design approach should encourage front-lit signage, and prohibit poorly designed and highly intrusive signage, including moving LED displays and the like and be in general accordance with the relevant Council DCP at the date of lodgement of the application.

#### **Energy Efficiency**

- 49)** The development applications for Stage 4 shall be supported by an environmental sustainability plan and associated report demonstrating the use of sustainable technologies to be incorporated into the development for the life of the buildings to reduce the environmental impact of the development and ongoing use of the development. The report is to consider but not be limited to the use of PV solar generation, roof gardens, rainwater capture and utilisation and other measures for reducing the environmental footprint in the development of the future site specific designs for new buildings.

#### **Contamination**

- 50)** The development application for each stage must provide a detailed contamination investigation in accordance with the recommendations of the Stage 1 Targeted Site Investigation (Contamination) Newcastle Urban Transformation and Transport Program - The Store 854 Hunter Street, Newcastle West prepared by Douglas Partners in May 2016. The assessment is to be conducted in accordance with appropriate applicable guidelines and standards. All necessary site remediation and management measures are to be presented in a Remediation Action Plan detailing remediation strategies, procedures and validation criteria for onsite remediation.
- 51)** All necessary contamination remediation works are to be undertaken and carried out in accordance with the Remediation Action Plan.
- 52)** Following implementation of the Remediation Action Plan, a Validation Report, to confirm that contamination remediation targets have been achieved, and any necessary Long-Term Environmental Management Plan are to be prepared by a suitably qualified consultant in accordance with the relevant guidelines and submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate for any stage of the development.

#### **Acid Sulfate Soils**

- 53)** Future development applications for each stage shall be accompanied by further detailed investigations to confirm the extent of Acid Sulfate Soils on the site and the implications for the proposed development. If the acid sulfate soil assessment identifies the presence of acid sulfate soils, then an Acid Sulfate Soil Management Plan prepared in accordance with the NSW Acid Sulfate Soil Management Advisory Committee's 'Acid Sulfate Soil Manual' is to be submitted to the relevant consent authority with the development application for each stage.
- 54)** Any disturbance of acid sulfate soils through excavation or dewatering should be conducted in accordance with the Acid Sulfate Soil Management Plan.

#### **Geotechnical Constraints/Mine Subsidence**

- 55)** The development application for each stage shall be accompanied by a detailed geotechnical investigation which identifies ground constraints and identifies engineering design and management strategies for building works and earthworks.

## Stormwater & Flood Mitigation

- 56)** Development applications for each stage shall be accompanied by a Stormwater Management Plan which includes details of connections to the existing drainage infrastructure, any infrastructure upgrades and details of stormwater harvesting for re- use within the development. Calculations to show the stormwater harvesting volumes proposed to meet the requirements of NDCP 2012 for retention volume shall also be detailed on the plans.
- 57)** A flood assessment prepared by a qualified hydraulic engineer shall accompany the development application for each stage of the project.

## Wind Mitigation

- 58)** The Stage 4 development application shall be accompanied by a Pedestrian Wind Environment Statement, which includes detailed wind tunnel testing and which is prepared by an appropriately qualified consultant.

## Advisory

- The applicant will be required to provide 'as constructed' drawings to Air Services Australia ([vod@airserviceaustralia.com](mailto:vod@airserviceaustralia.com)) detailing the overall height and location of buildings in all stages prior to the release of the Occupation Certificate for any stage.

## SCHEDULE 2

### REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.