

Department of Planning and Environment

HMS Application ID: 3258

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Dear Mr Jaeger

DEVELOPMENT APPLICATION REFERRAL HERITAGE NSW COMMENT

Address: 121 Hunter Street, NEWCASTLE NSW 2300

Development DA2023/00419 – CNR-56359

Application no:

I refer to your submission received by Heritage NSW on 15 June 2023 referring the above-named development application (DA) for comment. The DA is for Stages 3 and 4 of the Staged Concept DA (DA2017/00701) which was approved by the Joint Regional Planning Panel (JRPP) on 21 December 2017.

The Approvals Committee of the Heritage Council of NSW (Approvals Committee) considered an earlier concept approval for the Newcastle East End Project under DA2015/10182 and provided detailed comments on built heritage and archaeology in a letter dated 18 February 2016 (DOC15/470474).

The Stages 3 and 4 proposal is for a mixed-use residential and retail development within Blocks 3 and 4 at 105-137 Hunter Street, 3 Morgan Street, 22 Newcomen Street and 66-74 King Street, Newcastle.

The proposed development involves:

- Complete demolition of buildings not identified as heritage or contributory buildings
- Construction of two separate buildings, connected by a landscaped laneway at ground floor level
- Adaptive reuse of the former Municipal Building
- Reuse of two contributory buildings within Block 4, including the former Sanitarium Building and the commercial Building at 105 Hunter Street
- Retention of the significant facades

The following key documents provided in the application were subject to review:

- *Statement of Environmental Effects: Stage 3 and 4 East End Detailed DA*, prepared by Urbis, dated May 2023
- *Heritage Impact Statement: Newcastle East End, Blocks 3 & 4 (Demolition & Development DAs), Newcomen, Hunter, Thorn, Laing and King Streets*, prepared by City Plan, dated April 2023
- *East End Stage 3 and 4: Visual Impact Assessment*, prepared by Urbis, dated April 2023
- *Historical Archaeological Assessment: Newcastle East End Project Stages 3 and 4*, prepared by Umwelt, dated May 2023

The following comments are provided under delegation from the Heritage Council of NSW in relation to the proposal:

Environmental heritage

None of the properties within the Stages 3 and 4 (subject) site are listed on the State Heritage Register (SHR). However, the Christ Church Cathedral listed on the SHR (No. 01858) is located immediately to the south of the subject site, across King Street. The SHR listing of the Cathedral states that the Cathedral's aesthetic significance is demonstrated by:

"its landmark qualities, having dominated and defined the Newcastle skyline for many years. The form, scale, colour, texture and materials of the fabric combine to present a piece of extraordinary architecture in a most dramatic setting." (Source: SHR Listing)

The Statement of Environmental Effects for the Stages 3 and 4 DA acknowledges that the proposal includes building bulk that falls outside of the building envelopes approved under the Concept DA. A section 4.55(2) modification is therefore being progressed concurrently to amend the approved building envelopes, to reflect the *"re-distribution of the massing out of the central view corridor towards other parts of Stage 3 and Stage 4, and the Christ Church Cathedral."* It is asserted that this will accommodate a view corridor from the Harbour to the Cathedral.

It is further stated in the Heritage Impact Statement for the Stages 3 and 4 DA that:

"The proposed works will improve some key view corridors while also ensuring no or minimal adverse impact on surrounding important views, including to the Cathedral and city skyline."

However, the Visual Impact Assessment included as part of the exhibited documents indicates that an increase in the building envelopes from the approved Concept DA building envelopes causes additional view loss. It is particularly concerning that, contrary to the comments provided to Newcastle City Council on the Concept DA by the Approvals Committee in 2016, the building envelopes have been increased such that views from the Market Place and Queens Wharf Promenade to the Cathedral will be diminished. In addition, increment in the building envelopes further encroaches on the views from the Cathedral Park towards north and northeast, such that the views to the water are significantly lost.

It is also noted that many of the public submissions include concerns that the proposed increase in building heights will result in adverse impacts on views to and from Christ Church Cathedral and the river foreshore.

Heritage NSW strongly recommends that the significant views to and from the SHR listed cathedral are maintained such that the landmark qualities and extraordinary setting of the cathedral is retained. One of the comments provided by Approvals Committee on the Concept DA in 2016 is reiterated below for your reference:

“Reduction in heights in the proposed master plan to preserve the historic views to and from the state heritage listed cathedral site and foreshore is supported. It is strongly recommended that the reduced heights be secured by a revised LEP.”

It is highlighted that very similar comments were made by Heritage NSW in response to Stage 2 of the Staged Concept DA (DA2017/00701) on 16 July 2018 (DOC18/404940).

Historical Archaeology

It is noted that Stage 1 of the Newcastle East End Project was the subject of previous historical archaeological excavation under a Section 140 excavation permit approved on 21 December 2017 (2017/s140/33).

A Section 140 excavation permit for Stage 2 of the Project was approved on 9 January 2019 to enable archaeological monitoring and salvage of locally significant archaeology (2019/s140/019). An application to vary the excavation directors and excavation team was approved on 16 November 2020 (2020/s144/012).

Following commencement of works under 2020/s144/012, it was identified that the archaeological profile of the site had been severely compromised by demolition works undertaken in 2020. It was recommended that test excavations be conducted to confirm the status of any archaeological remains. Due to non-compliance with conditions, permit 2020/s144/012 was revoked by Heritage NSW on 7 October 2021. A new permit was issued on 29 January 2021 (2021/s140/003) and test excavations were subsequently undertaken.

The Historical Archaeological Assessment for the Stages 3 and 4 DA has considered the archaeological potential of the subject site through a detailed analysis of primary and secondary historical sources. The assessment has also considered the results of previous archaeological excavations undertaken, specific site formation processes, development over time and how this may have affected the archaeological resource.

The subject site is located at the edge of the original convict and early town areas of Newcastle centred around Watt Street. It has been assessed that there is little potential for intact remains (including early burials) relating to the original convict settlement within the subject site (1804 to early 1820). Any such remains would likely be of State significance.

It has been assessed that there is low to moderate potential for archaeological remains from the early town development period, dating from 1823 to 1850. If intact, these remains would be of local significance. The potential for archaeological remains associated with the post-1850 phase of commercial and residential expansion, including buildings and terraces and light industrial use, is considered to be moderate. If present, these remains would be of local significance.

The assessment concludes that the proposed excavation of the subject site for three levels of basement parking will result in the removal of all potential historical archaeological remains that may be present within those areas. It is recommended that an excavation permit for archaeological monitoring of bulk excavation and detailed archaeological excavation as required is applied for under s140 of the *Heritage Act 1977*.

An archaeological research design and excavation methodology (ARDEM) is included in the assessment, which is necessary to support a Section 140 permit application. The ARDEM recommends development of an appropriate sampling strategy if there is a high level of preservation across the subject site, and extensive intact archaeological remains are present. The purpose of this strategy would be to select areas where the archaeological resource will address more specific research questions, rather than simply confirming what is known from existing historical research.

The ARDEM recommends that a public information/dissemination program should run concurrently with the archaeological investigation. It also recommends that an Interpretation Plan be prepared

for the site, which includes the results of the archaeological investigation. Given the scale of the redevelopment of this site, the local community interest in the history of the development of Newcastle, and the rarity of such events, it is likely this would be included as a condition of the approved Section 140 permit.

Recommendations

It is recommended that the following historical archaeological conditions are included in the Development Application:

Name of condition

1. Prior to any ground disturbance works occurring on site, the Applicant must obtain an approved s.140 application under the *Heritage Act 1977* to undertake archaeological monitoring and excavation of this site. The Applicant must comply with all the conditions of the s.140 approval.
2. In the event the subject site is found to contain substantially intact State significant archaeological relics which are undocumented and associated with the pre-1840s convict occupation of Newcastle, modification of the detailed design to avoid harm and retain these *in situ* should be undertaken. This is consistent with previous advice of the Heritage Council of NSW for this site. Additional approval under s.140 of the *Heritage Act 1977* may be required to harm such remains if detailed design cannot be redesigned to avoid harm to these resources in whole or part.

Reasons: The subject site has potential to contain historical archaeological relics, which are protected under s.139 of the Heritage Act 1977. The Applicant must obtain an approval under s.141 of the Heritage Act 1977 prior to any harm occurring to relics.

3. Prior to the release of the Occupation certificate for this site, the Applicant must write to Council and demonstrate they have satisfied the requirements for lodging all final archaeological excavation reports required under any and all s.140 applications under the *Heritage Act 1977* which have been approved by the Heritage Council of NSW for this site.

Reason: The results of the archaeological excavation are an important part of documenting, reporting on and explaining the results of the excavation and explaining those results to the broader community. This report should be linked to the occupation certificate so there is a clear milestone which links the Applicant to ensuring this document is produced. The Heritage Council of NSW notes several major archaeological excavations approved for development within Newcastle have failed to produce final excavation reports and this has resulted in a negative heritage outcome.

Heritage NSW will provide a separate response to the Integrated Development Application referral for the proposed development under section 90 of the *National Parks and Wildlife Act 1974*.

If you have any questions about this correspondence, please contact Sam Gibbins, Senior Assessments Officer - Historical Archaeology at Heritage NSW on (02) 9873 8500 or heritagemailbox@environment.nsw.gov.au

Yours sincerely

'Michael Ellis.

Michael Ellis
Manager Assessments
Heritage NSW
Department of Planning and Environment
As delegate of the Heritage Council of NSW
17 August 2023