

STATEMENT OF MODIFICATION

CONCEPT DA (DA2017/00701) STAGE 3 AND 4 EAST END

PREPARED FOR

**EAST END STAGE 3 PTY LTD AND
EAST END STAGE 4 PTY LTD**

MAY 2023

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EXECUTIVE SUMMARY

Overview

This Statement of Modification is prepared by Urbis on behalf of East End Stage 3 Pty Ltd and East End Stage 4 Pty Ltd (the applicant) to accompany an application under section 4.55 (2) of the Environmental Planning and Assessment Act 1979 (**EP&A Act**) to modify development application (**DA**) DA2017/00701.

This development has undergone an Architectural Design Competition where four competitors put forward their designs in accordance with a robust Design Excellence Brief and Strategy. The SJB in collaboration with Durbach Block Jagers and Curious Practice Architecture (**the Design Team**) scheme was recommended by the Jury as the winning scheme in the competitive design process. The Applicant were the second private proponent in City of Newcastle (**CN**) to take on the ambitious task of undertaking an Architectural Design Competition. The applicant sort to ensure the highest level of design excellence for this highly strategic site by providing a variety of design responses to respond positively to the opportunity.

The section 4.55 (2) is required to modify the approved building envelopes in order deliver the 'winning' architectural scheme. Specifically, the proposed modifications include:

- Re-distribution of building massing out of the central view corridor towards other parts of Stage 3 and Stage 4 and toward the Christ Church Cathedral. This amendment will ensure the proposal remains in accordance with the NDCP 2012 and aligns with CN's vision of the view corridor.
- Realignment of Market Square as per the Design Excellence Competition scheme. Market Square is aligned with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral.
- Amendment to the height of building envelope as a result of the redistributed mass and addition 10% design excellence provision, as per below:
 - Building 3 West: 34.30 RL
 - Municipal Building: 20.43 RL (also known as Building 3 East, and previously Building 3 North)
 - Building 3 East: 45.65 RL (previously known as Building 3 South)
 - Building 4 North: 36.92 RL
 - Building 4 South: 51.70 RL
- Amendment to the floor space ratio as a result of the redistributed mass and addition 10% design excellence provision, as per below:
 - Stage 3: 3.27:1
 - Stage 4: 4.36:1
 - Combined: 3.79:1

Note: the Newcastle Local Environmental Plan 2012 (NLEP) prescribed an FSR of 4:1 (excluding design excellence bonuses).

A Detailed DA has been submitted concurrently with this application which seeks development consent for the design, construction, and use of the mixed-use development by the winning architect. It is acknowledged this proposal includes building bulk which falls outside of the approved building envelopes.

Therefore, the purpose of the section 4.55(2) modification is to amend the building envelopes approved under the Concept DA 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.

History

The design is a result of iterative detailed engagement and input from various CN teams including planning, waste, engineering, and heritage. In addition, the Chair of CN's Urban Design Review Panel, Dr Philip

Pollard, inputted into the Design Brief and competition process to ensure that this provided the best framework for design responses that balanced the public and private interests in an appropriate manner.

East End is Newcastle's residential and lifestyle precinct. As seen by the success of Stage 1, East End is the next catalyst in the ongoing revitalisation of Hunter Street and the surrounding CBD. The Iris Capital East End development is a critically important project with the purpose of rejuvenating the heart of the Newcastle CBD. A city centre that had been neglected and in decay for many years, the East End development is the single largest investment that has and continues to reshape the Hunter Street precinct. The multi award winning Stage 1 has been widely acclaimed as having produced an exceptional outcome in terms of design, amenity and ground plane experience.

Stage 3 and 4 delivers a remarkable city outcome. Through a series of minor modifications, the Design Team have shifted the approved built form massing to accommodate the view corridor along Market Street to Christ Church Cathedral, aligned with CN's desired public domain outcome. These subtle changes allow the built form to embrace the geography of place while delivering more residential dwellings with views to the harbour. The proposal delivers a significantly improved public benefit in the form of the connected ground plane and a family of architecturally designed, and design excellence achieving buildings.

Substantially the Same

The development as proposed to be modified is considered 'substantially the same development' for which consent was originally granted for the following reasons:

- The description and nature of the development is relevantly unchanged in that the proposal continues to deliver a "major redevelopment of Hunter Street Mall, a mixed-use development comprising retail, hotel and motel accommodation, serviced apartments and commercial, public spaces, residential (566 apartments), associated car parking & site works".
- The proposal will continue to have a variety of dwelling sizes and types, allowing for diverse housing options.
- The proposal will still deliver an exceptional public benefit improved from the Concept DA. Through a series of modifications, the Design Team have shifted the approved built form massing to accommodate the view corridor along Market Street to Christ Church Cathedral, aligned with CN's desired public domain outcome. These subtle changes allow the built form to embrace the geography of place while delivering more residential dwellings with views to the harbour. The proposal delivers a significantly improved public benefit in the form of the ground plane.
- The proposal will continue to achieve 10% adaptable housing within Stage 3 and Stage 4.
- The realignment of the building envelopes to ensure mass is not situated across the main view corridor will improve the overall public domain and achieve CN's vision within the NDCP 2012. Market Square forms part of Stage 3 and provides further opportunities for activation. Market Square is aligned with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral.
- The proposed land uses of retail and residential are consistent with the objectives of the MU1 Mixed use zone as per the NLEP 2012.
- The proposal will continue to deliver high quality landscaped areas and remain consistent with the approved development and overall design concept.
- The proposed design as amended will not result in unreasonable impacts on the amenity of adjoining developments, specifically the overshadowing impacts will be improved for CN's carpark site to the south of Stage 3.
- The proposed redistribution of massing from the view corridor, as approved by the Concept DA, results in an improved public view towards the Christ Church Cathedral. If the Concept DA arrangement was retained, key views would be greatly impacted, and the Christ Church Cathedral would be obscured.
- 3 private domain views were assessed by Urbis in the Visual Impact Assessment which concluded that:
 - The additional height sought, may impact views from the upper levels of the Segenhoe Flats to Fort Scratchley, a minor extent of open water and built form within the CBD. The additional height sought when viewed from lower levels would likely block views of built form within the CBD, as well as sections of the Hunter River and Nobbys Head. This is deemed as acceptable based upon the VIA assessment criteria.

- The additional height sought, will block views of open sky beyond and will not block any scenic or highly valued features for the Newcastle Club or The Herald Apartments. This is deemed as acceptable based upon the VIA assessment criteria.
- The additional building height (above the Concept DA) will not result in unreasonable impacts to public spaces adjacent residential developments. The majority of overshadowing falls within the approved concept DA massing with only small increments of shadow falling outside of the approved envelopes.
- The proposal engaged heavily with First Nations persons to ensure connection with Country, which has received glowing endorsement from the First Nations community who assisted with evolving the scheme.

Concurrent Detailed DA

This section 4.55(2) will facilitate the delivery of Stage 3 and 4, the key features are summarised below:

- Demolition of existing remaining Contributory 1 structures onsite, except for the Municipal Building façade and façade of 105 and 111 Hunter Street;
- Construction of a mixed-use precinct forming an active ground level, inclusive of retail and commercial tenancies, with five buildings reaching up to 10 storeys (Building 3 East – Bluebell (previously Building 3 South)) and comprising 195 apartments.
- Basement car parking comprising 314 car spaces;
- Communal open space for residents located in Building 3 North, Building 4 North and Building 4 South;
- Vehicle access to the site via Thorn Street and Laing Street;
- Associated landscaping and public domain improvements;
- Commercial tenancies will front Hunter Street and the internal Market Plaza to enhance activation of the ground plane and pedestrian traffic. These will be accompanied by appropriate landscaping features to enhance the public domain;
- Market Square forms part of Stage 3 and provides further opportunities for activation. Market Square is aligned with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral ; and
- Construction of ancillary infrastructure and utilities as required.

East End is the next catalyst in the ongoing revitalisation of Hunter Street and the surrounding CBD. Stage 3 and 4 will delivery on the project vision established in the Architectural Design Competition, which was “ *to achieve design excellence that raises the bar higher than what has been achieved to date, such that the final outcome is so compelling that owners in Stage 1 and 2 will want to move into this third and final stage in a location that with harbour on one side and ocean on the other, is second to none.*”

In view of the above, we submit that the proposal is in the public interest, is substantially the same and that the section 4.55 should be approved.

1. INTRODUCTION

This Statement of Modification is prepared by Urbis on behalf of East End Stage 3 Pty Ltd and East End Stage 4 Pty Ltd (the applicant) to accompany an application under section 4.55 (2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) to modify development application (DA) DA2017/00701.

On the 02 January 2018, the Hunter and Central Coast Planning Panel granted consent for a Concept DA (DA2017/00701) across the site (105-137 Hunter Street, 3 Morgan Street, 22 Newcomen Street and 66-74 King Street, Newcastle), for the following:

Concept Development Application for a major redevelopment of Hunter Street Mall, a mixed-use development comprising retail, commercial, public spaces, residential (563 apartments), associated carparking & site works.

A Competitive Design Process was undertaken in July to August 2022. At the conclusion of the Competition, the Selection Panel determined that the scheme by SJB in partnership with Durbach Block Jagers and Curious Practice as the winner of the Competitive Design Process as it best met the objectives of the Competition Brief and was most capable of achieving design excellence.

A Detailed DA has been submitted concurrently with this application which seeks development consent for the design, construction and use of the mixed-use development by the winning architects. The proposal includes building bulk which falls outside of the approved building envelopes. Therefore, the purpose of this modification is to amend the building envelopes approved under the Concept DA (D/2017/00701) consent 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.

The proposal is generally consistent with the selected scheme and recommendations of the Competitive Design Process. All variations to the building envelope have carefully minimised the impacts on the streetscape and adjoining sites whilst increasing the amenity and usability of the proposed development.

The proposal delivers a significant public benefit, beyond what was envisaged in the approved Concept DA, by the redistribution of floor space from within the identified view corridor for the "Harbour to Cathedral Park" to Building 3 South (DBJ) providing a generous and publicly accessible space. CN have a desired public domain outcome for the site, which is reflected in the Newcastle DCP 2012. The desired public outcome is currently restricted by a small component of the western end of Building 3 South.

Building 3 South (now Building 3 East) was placed and approved in the current location with CN's endorsements to obscure the existing CN carpark to the south of the site.

A set of amended plans have been prepared by SJB and are submitted with this application.

This report provides the following:

- **Section 2:** Outline of site and project history including assessment and determination of the original development application.
- **Section 3:** Overview of proposed modifications, including rationale and intended outcomes.
- **Section 4:** Proposed amendments to the current development consent conditions
- **Section 5:** Assessment of the proposed modifications in accordance with section 4.55(2) of the EP&A Act
- **Section 6:** Assessment of the application in accordance with the matters for consideration listed in section 4.15 of the EP&A Act
- **Section 7:** Conclusion.

The assessment of the application outlined in this report demonstrates that the proposed modifications will result in minimal additional environmental impact and satisfies the requirements of section 4.55(2) of the EP&A Act.

2. THE SITE

2.1. EAST END PRECINCT

East End is transforming four city blocks into a vibrant urban village. The Iris Capital East End development is a critically important project with the purpose of rejuvenating the heart of the Newcastle CBD. A city centre that had been neglected and in decay for many years, the East End development is the single largest investment that has and continues to reshape the Hunter Street precinct.

Stage 1 has been completed and is critically acclaimed having won numerous awards across Australian Institute of Architects, Urban Development Institute of Australia, Urban Taskforce Australia, and the Urban Developer.

Stage 2 is currently under construction and due for completion at the end of 2023.

This DA relates to Stage 3 and Stage 4 (Stage 3 is on Block 3 and Stage 4 is on Block 4). The site is comprised of two separate blocks of land known as Stage 3 and Stage 4 (or Block 3 and Block 4), refer to **Figure 1**. The site addresses are 105-137 Hunter Street, 3 Morgan Street, 22 Newcomen Street and 66-74 King Street, Newcastle.

Figure 1 – East End Precinct



Source: SJB sourced from the DA Tracker

2.2. STAGE 3 AND 4 SITE DESCRIPTION

The site is comprised of two separate blocks of land known as Stage 3 and Stage 4. The site addresses are 105-137 Hunter Street, 3 Morgan Street, 22 Newcomen Street and 66-74 King Street, Newcastle and are legally described as:

- Lot 32, DP 864001 (137 Hunter Street) – Block 3
- Lot 31, DP 864001 (121 Hunter Street) – Block 3
- Lot A, DP 388647 (111 Hunter Street) – Block 4
- Lot B, DP 388647 (109 Hunter Street) – Block 4
- Lot 1, DP 77846 (105 Hunter Street) – Block 4
- Lot 100, DP 1098095 (3 Morgan Street) – Block 4
- Lot 1, DP 331535 (22 Newcomen Street) – Block 4

- Lot 2, DP 331535 (3 Morgan Street, Newcastle) – Block 4
- Lot 98, DP 1098034 (3 Morgan Street) – Block 4
- Lot 96, DP 1098068 (3 Morgan Street) – Block 4
- Lot 1, DP 723967 (3 Morgan Street) – Block 4
- Lot 1, DP 819134 (66-74 King Street) – Block 4

Altogether, Stage 3 and Stage 4 parcels of land have an area of 6,450m².

Stage 3 – Hunter Street

Stage 3 site is approximately 3,365m² and has frontages of approximately 81m to Hunter Street to the north, 81m to Laing Street to the south, 42m to Morgan Street to the east and 42m Thorn Street to the west. The site currently accommodates an older style brick, two storey commercial building. The building exhibits a row of shopfronts which are currently vacant. The rear of the site has a direct interface with a vacant site, until recently, it accommodated a five-storey car park which was owned by City of Newcastle. The existing car park has been demolished as it was no longer in use and City of Newcastle are exploring opportunities for redevelopment.

Part of the site is a local heritage item, namely a Municipal Building (No. I403) located at 121 Hunter Street. Directly opposite is a locally listed heritage item, Former Hotel Hunter (No. I405) located at 152-160 Hunter Street and diagonally north-west from the site, another Municipal Building (No. I406) located at 164-170 Hunter Street.

Located south of the site is a state heritage item, known as Christ Church Cathedral, Cemetery and Cathedral Park (No. I562), situated at 52A Church Street.

Stage 4 – Newcomen Street

Stage 4 is approximately 3,085m² and has frontages of approximately 30m to Hunter Street to the north, 55m of Newcomen Street to the east, of 40m of King Street to the south and 42m of Morgan Street to the west. The site currently accommodates multiple mixed-use buildings, in particular exhibiting ground floor retail uses along the Hunter Street frontage with residential use becoming more prominent on the Newcomen Street frontage. The direct middle of the site accommodates a small hardstand car park, with three commercial buildings surrounding (visible via king street frontage), of which are no longer in use.

Both Stage 3 and Stage 4 are located within the Newcastle City Centre Heritage Conservation Area.

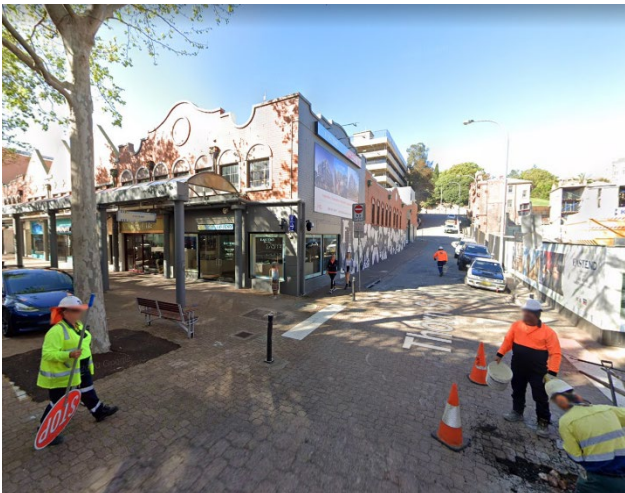
The site is located within the City of Newcastle's 'East End Precinct' which is characterised by hilly topography and a mix of uses focusing on the retail spine of Hunter Street Mall. The site area is illustrated in **Figure 2** and site photos are provided in **Figure 3**.

Figure 2 – Site and surrounding context.



Source: Urbis

Figure 3 – Site photos



Picture 1 – Stage 3 | Corner of Thorn and Hunter Street

Source: Google Maps



Picture 2 – Council car park site | Looking North-West toward Stage 1 & 2

Source: SJB



Picture 3 – Stage 4 site | Existing hardstand car park, Newcomen Street frontage

Source: Google Maps



Picture 4 – Stage 4 | King Street frontage

Source: Google Maps

2.3. LOCALITY CONTEXT

The site is located within an area of Newcastle that is principally of commercial use. Development along both sides of King Street and Hunter Street have a mix of scale accommodating residential, retail and commercial development, with various buildings and uses.

- To the **west** of the site directly is Thorn Street. DA2018/00354 was approved by the Hunter and Central Coast Regional Planning Panel on 15 March 2019, for a mixed-use development at 147-153 Hunter Street. The approved development includes residential (121 dwellings), retail and commercial, and associated demolition and site works. This development is Stage 2 of Iris Capital's East End project. Construction is currently underway, with the heritage façade being retained. Further east is the completed Stage 1 of the East End project, consisting of the revitalised David Jones Building – now the new QT Hotel, Newcastle, and new residential and retail facilities.
- The Former Hotel Hunter (I405) is located to the **north** of the site at 152-160 Hunter Street. The building is a three storey, commercial premises of the traditional federation style, with semi-circular arches rendered flush with brick façade. This building adds to the heritage significance of the area.
- Diagonally **north-west** from the site, a Municipal Building (I406) located at 164-170 Hunter Street. DA2019/00331 was approved by CN on 21 October 2019 for alterations and additions to the existing building for adaptive re-use to 5 storey level mixed-use development. Construction is yet to begin on this project.
- Further **north-west** from the site, DA202/01505 is currently under assessment by Council. The proposed development at 182 Hunter Street, is for shop-top housing and includes commercial tenancy and alterations and additions.
- **North** of the site, directly between the Former Hotel Hunter and Municipal Building is public open space, known as the Market Square. Further north is Queens Wharf Hotel, Newcastle Ferry Terminal, Queens Wharf light rail stop and additional public domain.
- To the **east** of the site is the former Newcastle Herald Building. DA2015/10299 was approved by the Hunter and Central Coast Regional Planning Panel on 22 September 2016. The approved development was for alterations and additions to the existing commercial building to include an eight-storey residential flat building, 121 units plus three level basement car parking with 161 parking bays. This development is now built and occupied.
- To the **south** of Block 3 is King Street, and the former CN car park site which is currently vacant.
- Further to the **south** is State heritage item No. I562, Christ Church Cathedral, Cemetery and Cathedral Park. The Cathedral is situated at 52A Church Street, adjacent to Church Street on the southern, highest part of the site with the rest park (former cemetery) laid out on the slope to the north and bounded on its

northern edge by King Street. The Cathedral and surrounding grounds are a significant part of the Newcastle East End precinct,

- Located to the **south** of the subject site and adjacent to the Cathedral, is a state heritage item (No. 1437) known as the Newcastle Club. It is located at 40 Newcomen Street.

Figure 4 below shows the site and surrounding locality.

Figure 4 – Site and surrounding locality.



Source: Urbis

2.4. TRANSPORT AND PEDESTRIAN ACCESSIBILITY

Train Network

The site is located within the Newcastle City Centre where accessibility to the public and active transport network is favourable at the site. It is located approximately 2km from the Newcastle Interchange that provides access to the Central Coast & Newcastle heading south, providing access to Central via Hornsby and connecting lines. Also access to the Hunter Line heading north, providing transport to Dungog and Scone.

Bus / Light Rail / Ferry Network

The bus network is highly accessible with a bus stop adjoining at the south of the site heading east down King Street (King St at Wolfe St).

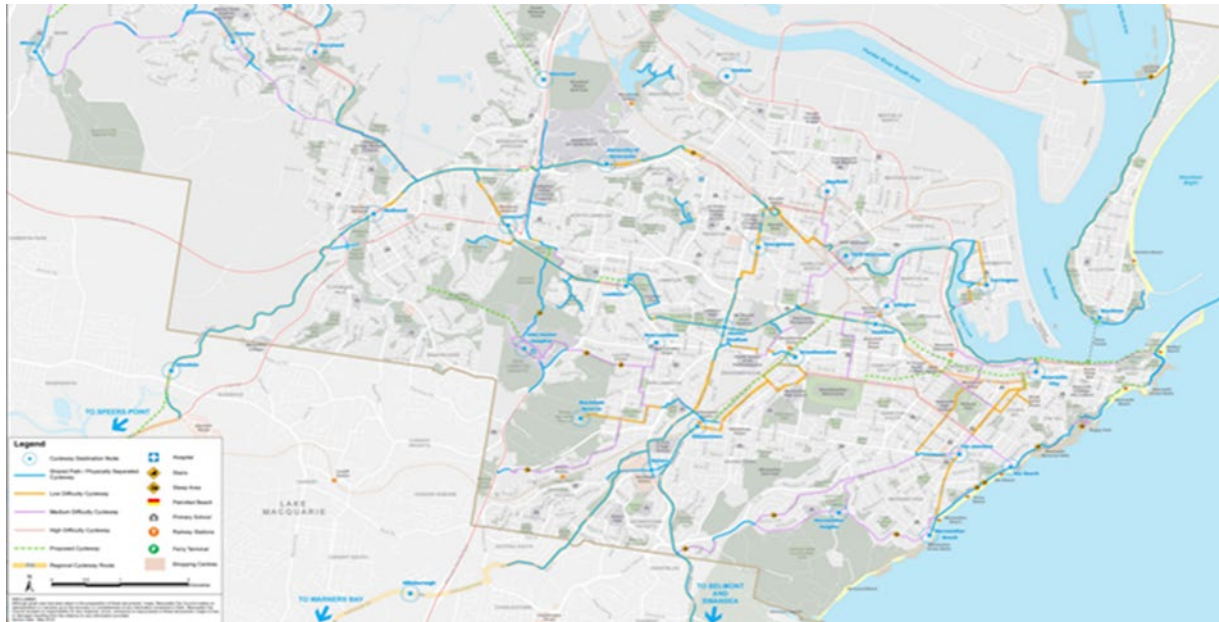
The site is also well serviced by the light rail network with Newcastle Light Rail, Queens Wharf stop located less than 200m north of the site. The site is less than 500m walk to the Queens Wharf Ferry stop.

Road Network

The road accessibility at the site is highly accessible due to its location within the Newcastle CBD. From Sydney the M1 Pacific Freeway heading north is just over an hour from the start at Wahroonga in Sydney's

Cycling

Figure 5 – Newcastle cycleways map



Walking

10 THE SITE

3. PROJECT BACKGROUND

3.1. PREVIOUS DEVELOPMENT APPLICATION

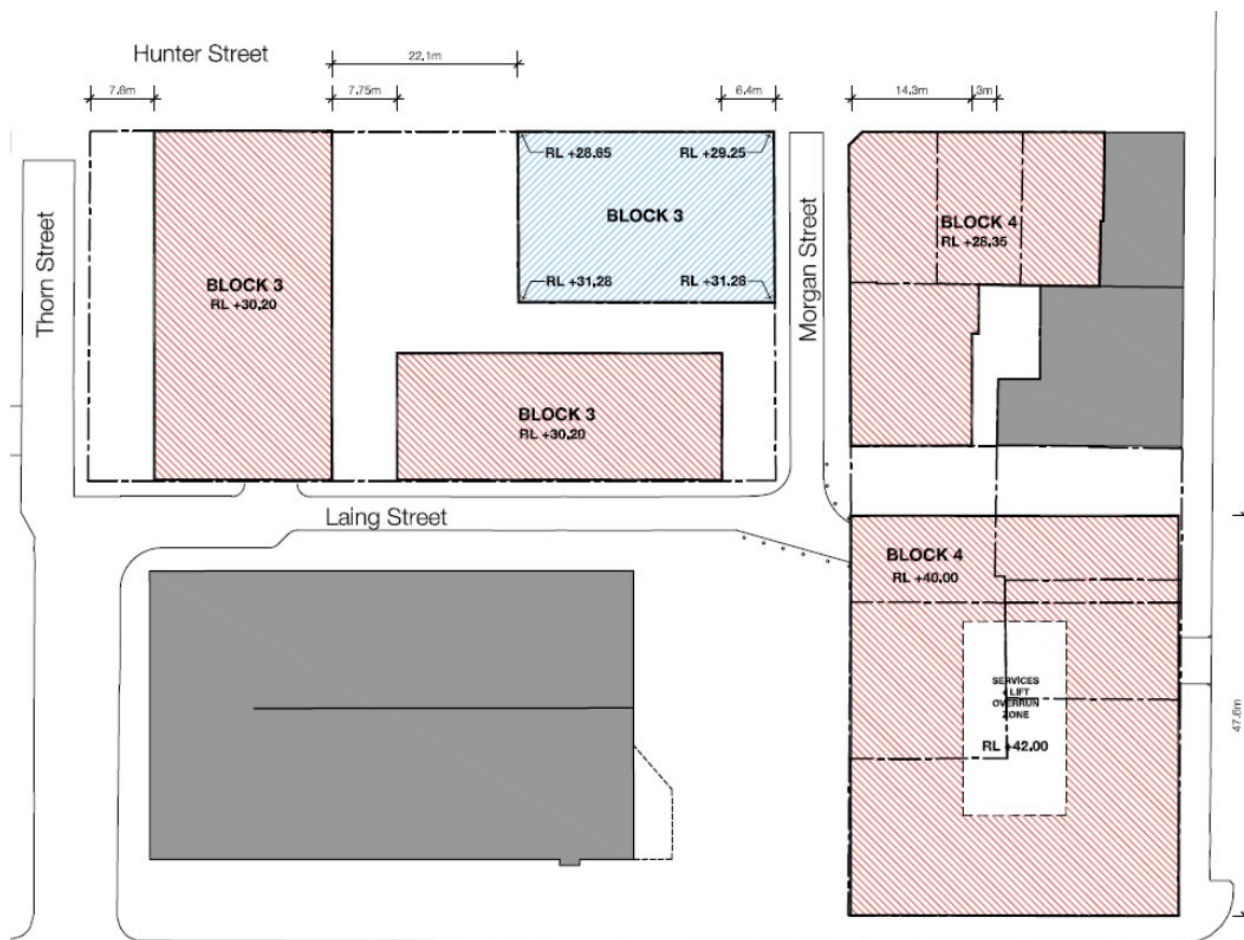
3.1.1. Concept Development (DA2017/00701)

On the 02 January 2018, the Hunter and Central Coast Planning Panel granted consent for a Concept Development Application (DA2017/00701) across the site (**Figure 1**), for the following:

Concept Development Application for a major redevelopment of Hunter Street Mall, a mixed-use development comprising retail, commercial, public spaces, residential (563 apartments), associated car parking & site works.

The following figures below illustrate the approved concept building envelopes under D/2027/00701. The Concept Approval established key parameters for the Competitive Design Process and subsequent detailed design including building mass and height.

Figure 6 – Approved Building Envelope Floor Plan (DA D2017/00701)



Source: SJB

Figure 7 – Approved Building Envelopes (D/2017/00701)



Source: SJB

A Competitive Design Process was undertaken in July to August 2022. At the conclusion of the Competition, the Selection Panel determined that the scheme by SJB in partnership with Durbach Block Jagers and Curious Practice as the winner of the Competitive Design Process as it best met the objectives of the Competition Brief and was most capable of achieving design excellence.

A Detailed DA has been submitted concurrently with this application which seeks development consent for the design, construction and use of the mixed-use development by the winning architects. The proposal includes building bulk which falls outside of the approved building envelopes. Therefore, the purpose of this modification is to amend the building envelopes approved under the Concept DA (D/2017/00701) consent to reflect the re-distribution of the massing out of the central view corridor towards other parts of Stage 3 and Stage 4 and toward the Christ Church Cathedral.

3.1.2. Proposed Detailed Development Application

The Detailed DA has been submitted concurrently with this modification application and follows on from the Architectural Design Competition undertaken between July 2022 and August 2023, whereby, the winning project architects SJB in partnership with DBJ and Curious Practice were announced.

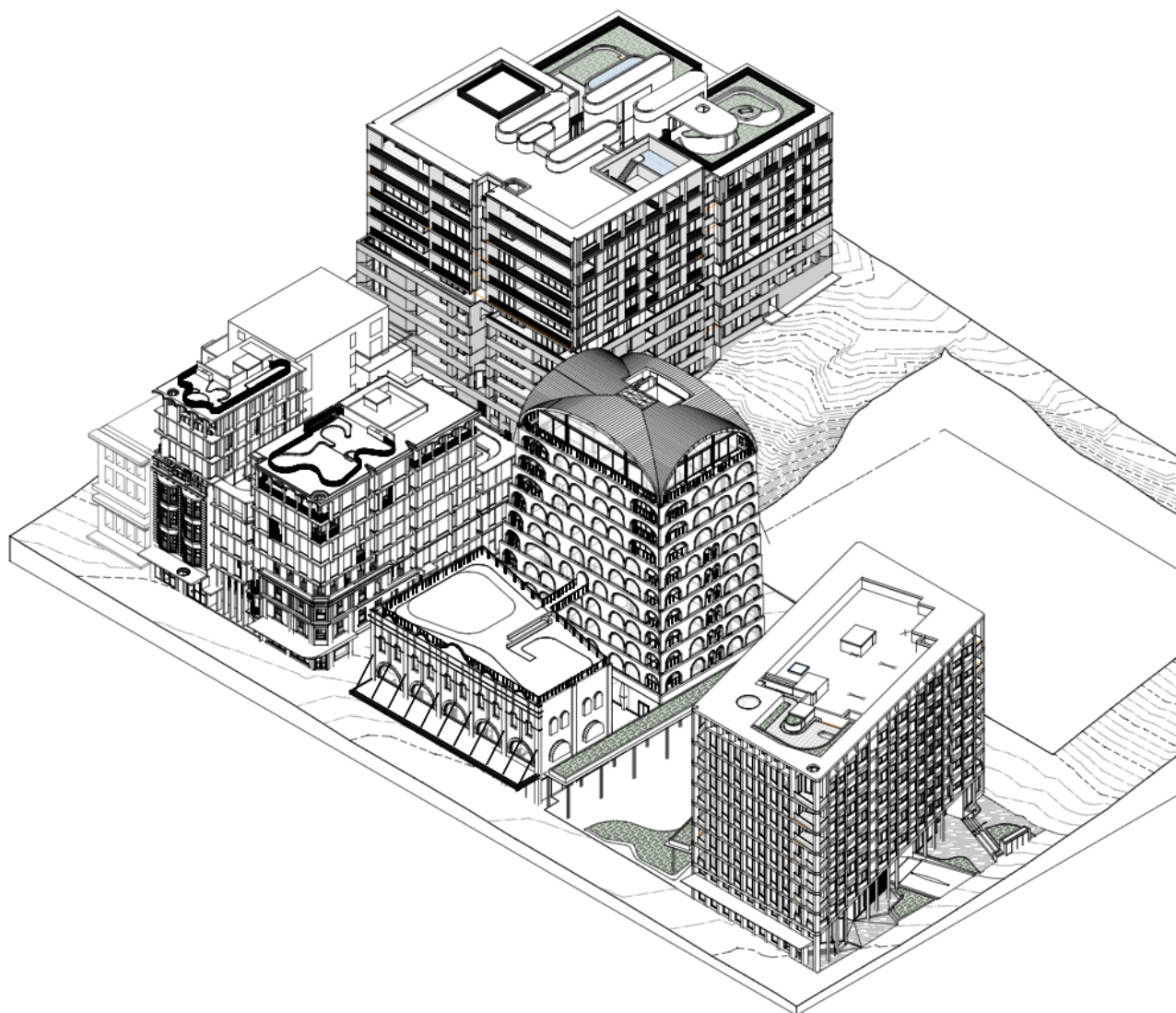
The key features of Stage 3 and 4 are summarised below:

- Demolition of existing remaining Contributory 1 structures onsite, except for the Municipal Building façade and façades of 105 and 111 Hunter Street;
- Construction of a mixed-use precinct forming an active ground level, inclusive of retail and commercial tenancies, with five buildings reaching up to 10 storeys (Building 3 East) and comprising 195 apartments.
- Basement car parking comprising 314 car spaces;
- Communal open space for residents located in Building 3 North, Building 4 North and Building 4 South;
- Vehicle access to the site via Thorn Street and Laing Street;
- Associated landscaping and public domain improvements;
- Commercial tenancies will front Hunter Street and the internal Market Plaza to enhance activation of the ground plane and pedestrian traffic. These will be accompanied by appropriate landscaping features to enhance the public domain;

- Market Square forms part of Stage 3 and provides further opportunities for activation. Market Square is aligned with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral; and
- Construction of ancillary infrastructure and utilities as required.

Figure 8 illustrates the overall precinct plan and **Figure 9** provides a render extract from the Detailed DA architectural package, as developed by SJB.

Figure 8 – Overall Precinct Plan



Source: SJB

Figure 9 – Proposed Building 3 North, Municipal Building and Building 3 West on right



Source: SJB

3.1.3. Stage 1

Stage 1 of East End comprises of two (2) separate Development Applications (and subsequent modifications), as outlined below:

On 04 January 2018 Hunter and Central Coast Planning Panel granted consent for a Development Application (DA2019/01150) for “*Mixed use development incorporating retail premises, shop top housing, car parking and associated works.*” Specifically, the mixed-use development comprises of three (3) multi storey buildings ranging from 10 to 11 storeys in height with retail uses at ground level and residential above. The proposal also included the retention of heritage facades on Hunter and Wolfe Street.

All three (3) buildings have been built and are occupied, namely:

- Perkins and King (Corner of Perkins Street and King Street) – **Picture 5**
- Washington House (fronting Hunter Street) – **Picture 6**
- Fabric House (Wolfe Street) – **Picture 7**

The public domain at ground level includes a centralised “meeting place” public courtyard with numerous retail tenants surrounding including Woolworths. Public art and landscaping is also a key feature of the public domain.

- On 26 April 2020 the Hunter and Central Coast Planning Panel granted consent for a Development Application (DA2019/01150) for “*Tourist and visitor accommodation.*” The tourist and visitor accommodation now completed and trading as the QT Hotel Newcastle (**Picture 8**).

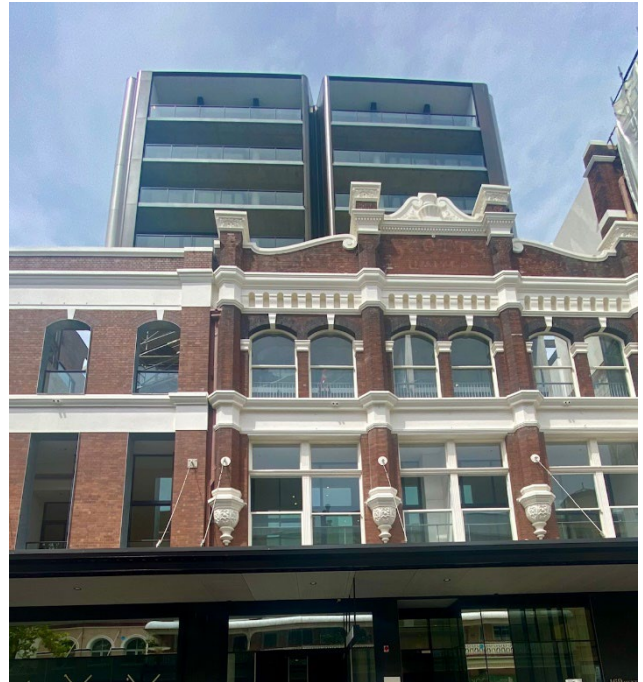
QT Newcastle is contained with the heritage listed, David Jones building fronting Hunter Street Mall. The property is the first QT hotel in regional New South Wales and has contributed to the revitalisation of East End and provide additional visitor accommodation. The QT also has a roof top bar that is open to guests and the general public.

Figure 10 – Stage 1 components



Picture 5 – Perkins and King viewed from public courtyard of Lyrique Lane

Source: Urbis



Picture 6 – Washington House

Source: Urbis



Picture 7 – Fabric House

Source: Urbis



Picture 8 – QT Newcastle

Source: Google Images

3.1.4. Stage 2

Stage 2 of the East End (DA/2018/00354) located at 147 Hunter Street, Newcastle was approved by Hunter and Central Coast Planning Panel on 31 August 2021 for the following:

Mixed-use development, residential (121 dwellings), retail and commercial, and associated demolition and site works

This consent has been acted upon and Stage 2 is currently under construction. Once constructed, it is intended that the proposal (refer to **Figure 11**) will deliver two (2) modern buildings which embrace views to the harbour and acknowledge the history of the site with the retention of the heritage facades.

The Stage 2 proposal is split into two distinct buildings known as 'Soul' and 'Lyrique'.

The 'Soul' building, named due to the incorporation of the original Soul Patterson Building façade contains a mix of modern elements as well as the historical finishes. It contains 1-, 2- and 3-bedroom apartments within the contemporary design.

The 'Lyrique' component of the proposal retains the façade of the original Lyrique Theatre and is designed heavily to mimic the intricate neighbouring heritage buildings. Stage 2 also incorporates the heritage façade of the former Masonic Hall entry off Thorn Street, and residential adaptable of the 5 terraces along King Street. Similar to the 'Soul' building, heritage as well as modern elements are incorporated into the fabric of the design and it contains 1-, 2- and 3-bedroom apartments and terrace houses.

A through-site link is proposed to connect from Stage 1 to Stage 3, and Stage 4 beyond.

Figure 11 – Stage 2 East End



Picture 9 – Corner of Wolfe Street and Hunter Street
| Soul Patterson Building Façade

Source: CKDS



Picture 10 – View looking north down Wolfe Street

Source: CKDS



Picture 11 – View looking east from Stage 1 | Lyrique Building Façade

Source: CKDS



Picture 12 – Corner of Wolfe Street and King Street

Source: CKDS

3.1.5. Demolition DA for Stage 3 and 4

DA2023/00336 was lodged on 21 April 2023 for the demolition and removal of existing non heritage and non-contributory buildings and structures at 137-145 Hunter Street, 3 Morgan Street, and 66-74 King Street, Newcastle. The locally significant heritage item 'Municipal Building' (No. 1403) and the contributory buildings at 105-111 Hunter Street and 22 Newcomen Street (Blackall Hall) were excluded from the proposed demolition and removal works.

After consultation with CN, CN committed to expedite the assessment of this DA over concerns the abandoned sites pose a safety risk. CN and Iris are committed to bringing forward demolition and securing the site after reported antisocial behaviour in and around the buildings that both business owners and members of the public had reported to police.

DA2023/00336 was determined on 28 April 2023 with demolition expected to commence in May 2023, subject to commercial negotiations with contractors and satisfaction of consent conditions. No excavation or groundworks were approved as part of this DA.

3.2. PRE-LODGE MENT ENGAGEMENT AND CONSULTATION

The Proponent, Urbis and consultant team met with Council officers on several occasions throughout 2022 and 2023 to discuss the proposed works. The below provides a summary of the consultation meetings:

- **20 May 2022:** Meeting between CN and Urbis to discuss the Design Competition Brief and Strategy.
- **20 May 2022 to 29 June 2022:** Ongoing engagement between CN, GANSW, Urbis and Iris to agree on the Design Competition Brief and Strategy and general competition procedure.
- **29 June 2022:** Meeting between CN, GANSW and Urbis to discuss the Design Competition Brief and Strategy.
- **29 June 2022 to 06 July 2022:** Ongoing engagement between CN, GANSW, Urbis and Iris to agree on the Design Competition Brief and Strategy and general competition procedure.
- **06 July 2022:** GANSW endorsed the Design Competition Brief and commencement of the Competition.
- **08 July 2022:** Commence of Design Excellence Competition.
- **30 August 2022:** Conclusion of Design Excellence Competition.
- **14 October 2022:** Design Integrity Panel #1 as detailed in **Section 3.4** of this SEE.
- **26 October 2022:** Design Integrity Panel #2 as detailed in **Section 3.4** of this SEE.
- **8 November 2022:** Meeting between CN and consultant team to discuss public domain concerns and priorities.

- **14 November 2022:** Design Integrity Panel #3 as detailed in **Section 3.4** of this SEE.
- **09 December 2022:** Design Integrity Panel #4 as detailed in **Section 3.4** of this SEE.
- **20 January 2023:** Design Integrity Panel #5 as detailed in **Section 3.4** of this SEE.
- **24 February 2023:** Design Integrity Panel #6 as detailed in **Section 3.4** of this SEE.
- **18 and 20 April 2023:** Meeting between CN and Urbis to discuss the demolition of non-heritage and non-contributory buildings. CN committed to expedite the assessment of the demolition DA over concerns the abandoned sites pose a safety risk.

The design is a result of iterative detailed engagement and input from various CN teams including planning, engineering, and public domain. In addition, the Chair of CN's Urban Design Review Panel (**UDRP**), Dr Philip Pollard, inputted into the Design Brief and competition process to ensure that this provided the best framework for design responses that balanced the public and private interests in an appropriate manner. Feedback received from CN and Dr Philip Pollard during these meetings has been incorporated into the final scheme.

Overall, the project team undertaken extensive engagement with the CN, GANSW and the DIP. In addition, SJB, COLA Studio's and Umwelt have engaged with relevant Aboriginal parties to inform the design development and the overall understanding of the site.

3.3. DESIGN COMPETITION

3.3.1. CN's Desired Public Domain

During the preparation of the Design Competition Brief, CN articulated they have a desired public domain outcome for the site that is inconsistent with the approved Concept DA even though the approved Concept DA (2015 then replaced by 2017 concept) was subsequent to the Newcastle DCP 2012. This desired public domain outcome is reflected in the Newcastle DCP 2012 and in **Figure 12** below. The blue hatched area is an 'important view corridor to Christ Church Cathedral'. The Newcastle DCP 2012 states the future character as:

This precinct has the potential to develop as boutique pedestrian-scaled main street shopping, leisure, retail and residential destination. Infill development is encouraged that promotes activity on the street and which responds to heritage items and contributory buildings. Views to and from Christ Church Cathedral and the foreshore are retained and enhanced. Foreshore access is improved.

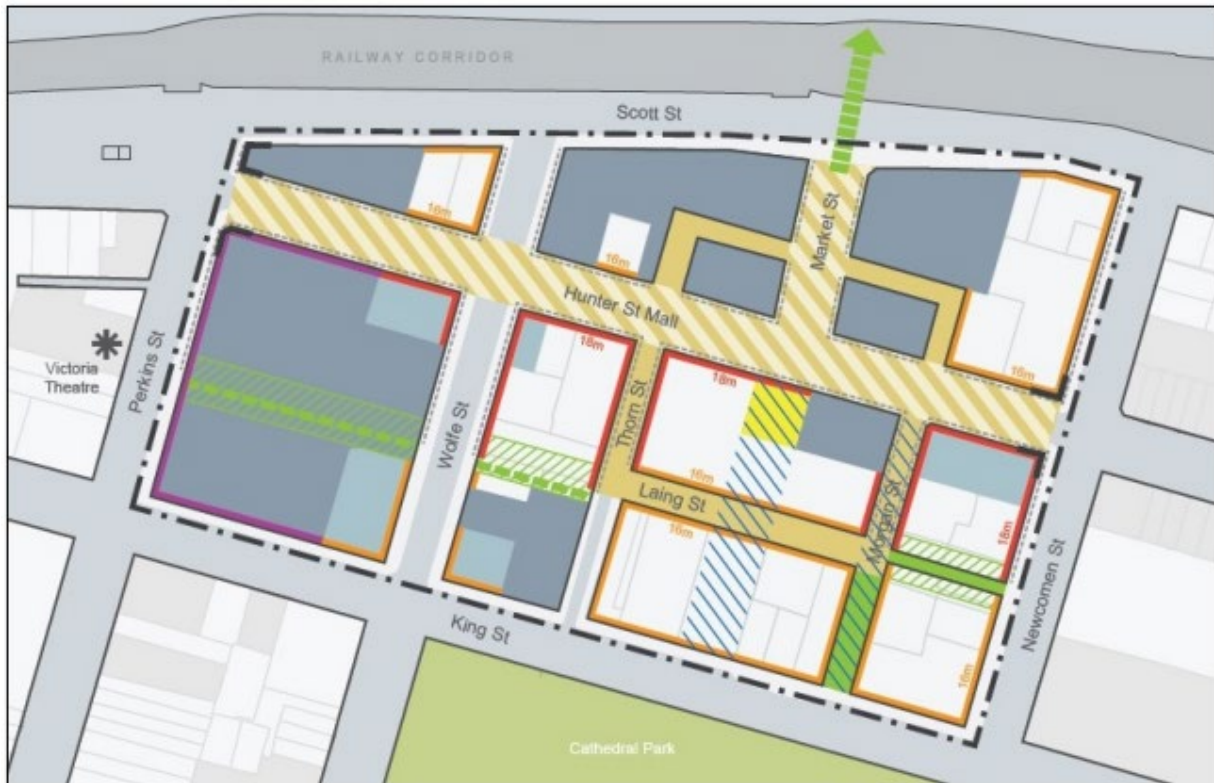
CN see the Harbour to Cathedral Park (previously called the Stairway to Heaven) concept as the pathway to achieve the desired future vision.

The Harbour to Cathedral Park was first imagined by EJE Architecture in 2006 but related to a different site and some different sites. The concept was delivered by a group of Novocastrian architects and proposed to link Cathedral Park to the south of the site to Newcastle Harbour to the north of the site. The concept would result in view lines from the Harbour foreshore and Hunter Street Mall to Cathedral Park and the northern transept of the cathedral.

The desired public outcome is currently restricted by a small component of the western end of Building 3 South (refer to **Figure 13**). For context, Building 3 South was placed and approved in the current location with CN's endorsement.

The mass of the Building 3 South was redistributed during the Architectural Design Competition to achieve a balance CN's desired outcome of the Harbour to Cathedral link. The redistributed mass achieves a balance of preserving the approved massing amenity from the Concept DA and achieving CN's desired outcome.

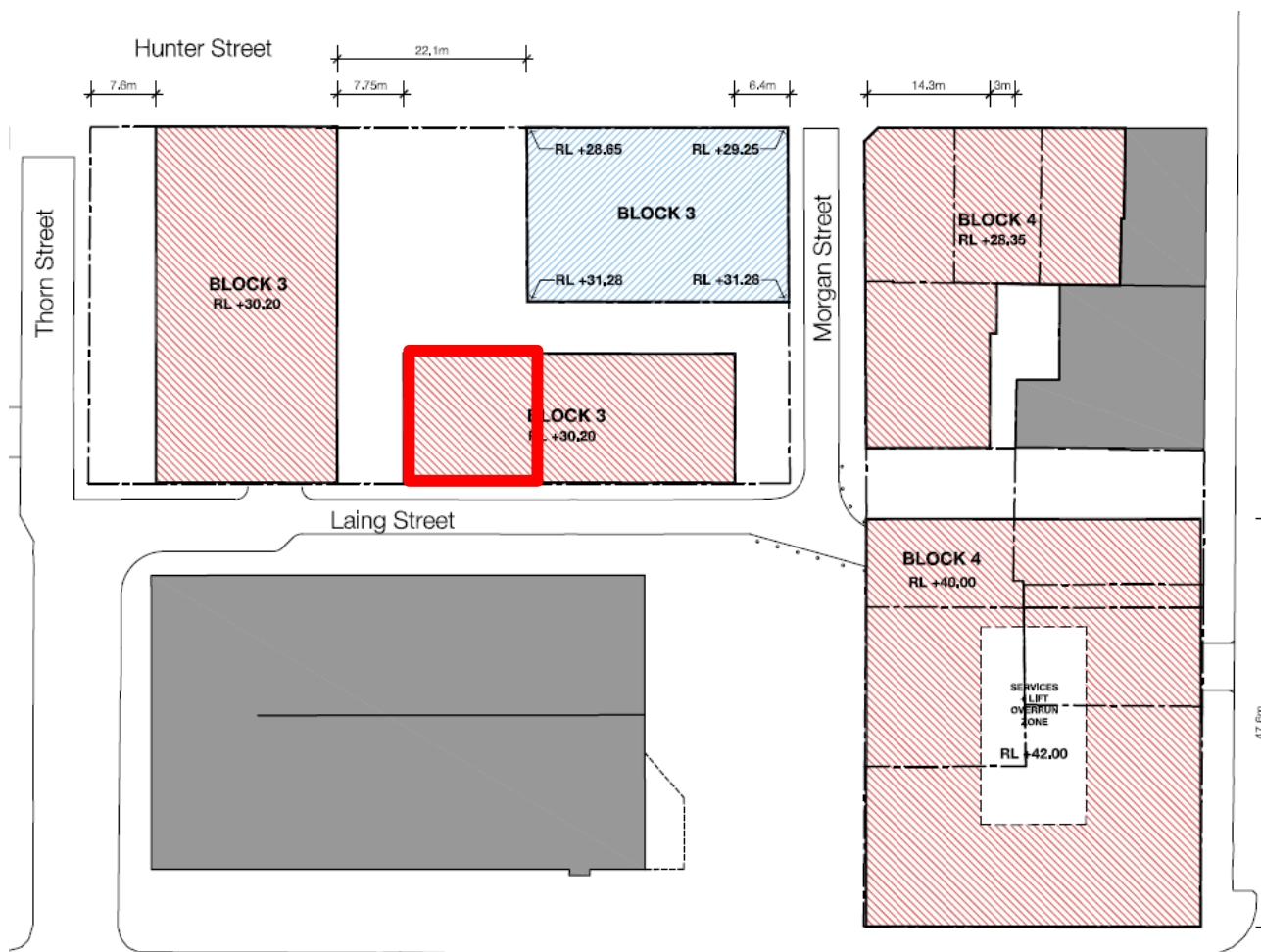
Figure 12 – Hunter Street Mall Precinct



- | | |
|--|--|
| — Urban block, nil setback to street boundary | Shared zone to be retained and improved |
| 18m maximum street wall height | Special emphasis on corner building |
| 16m maximum street wall height (typical) | Active frontage required |
| 22m maximum street wall height | Heritage building |
| Proposed new open space / courtyard | Contributory building (desired reuse) |
| Important view corridor to Christ Church Cathedral | Heritage building outside precinct boundary |
| Proposed new pedestrian crossing (replacing footbridge) | Important landmark / destination outside precinct boundary |
| Proposed new open pedestrian link (preferred location) | Public green open space |
| Proposed new through-site link / arcade (preferred location) | Cadastre boundary |
| Zone in which proposed new link should occur | Key precinct boundary |
| Connection to be retained and improved | |

Source: Newcastle DCP

Figure 13 – Approved Concept DA Building 3 South envelope in view corridor



Source: SJB (annotated by Urbis in red)

3.3.2. Design Competition Process

An Architectural Design Competition (**Competitive Process**) was undertaken for the redevelopment of Stage 3 and 4 East End. The vision was to develop a mixed-use precinct which achieves design excellence through its high-quality built form, high amenity dwellings and has an overall positive public domain benefit. The competitive process was the second competition undertaken within the Newcastle LGA.

The Applicant were the second private proponent in CN to take on the ambitious task of undertaking an Architectural Design Competition. The Applicant sort to ensure the highest level of design excellence for this highly strategic site by providing a variety of design responses to respond positively to the opportunity.

The Applicant engaged in a collaborative consultation process with GANSW and CN, including with Dr Philip Pollard. Prior to the endorsement of the Design Brief, numerous meetings were held to discuss Competitive Process as a whole and the details of the Design Brief. As noted above, prior to the commencement of the Design Competition the following consultation meetings occurred:

- **20 May 2022:** Meeting between CN and Urbis to discuss the Design Competition Brief and Strategy
- **20 May 2022 to 29 June 2022:** Ongoing engagement between CN, GANSW, Urbis and Iris to agree on the Design Competition Brief and Strategy and general competition procedure.
- **29 June 2022:** Meeting between CN, GANSW and Urbis to discuss the Design Competition Brief and Strategy
- **29 June 2022 to 06 July 2022:** Ongoing engagement between CN, GANSW, Urbis and Iris to agree on the Design Competition Brief and Strategy and general competition procedure.

The process from May to July 2022 involved numerous rounds of comments on the Design Brief, with CN inputting significantly into the details prescribed in the Design Brief.

The prepared of the Design Competition Brief was a result of iterative detailed engagement and input from various CN teams including planning, waste, engineering, and heritage (via the planning team). In addition, the Chair of CN's Urban Design Review Panel (**UDRP**), Dr Philip Pollard, inputted into the Design Brief and competition process to ensure that this provided the best framework for design responses that balanced the public and private interests in an appropriate manner.

Subsequently GANSW and CN endorsed the Design Brief on 06 July 2022, and the competition commenced on the 09 July 2022. During the Competition Process, CN were invited at all stages to observe the process.

The proponent invited four Architectural firms to undertake competitive process in accordance with clause 7.5 of the NLEP and the GANSW draft Design Excellence Competition Guidelines (**GANSW draft Guidelines**). The four firms that participated were:

- EJE Architecture
- SJB
- PTW
- Plus Architecture.

The Competition Brief was prepared in July 2022 by the Proponent and Urbis and endorsed by GANSW and CN. The Competition was undertaken over a six-week period.

The Jury assessed each scheme against the brief to select the highest quality architectural and urban design approach for the development. Following consideration of the four schemes, SJB in partnership with DBJ and Curious Practice was the winning scheme noting it demonstrated an appropriate response design, planning, and commercial objectives of the Brief. In the opinion of the Jury, this scheme is the most capable of achieving design excellence.

The Jury identified the following elements that contributed to the success of the scheme and are essential to be retained throughout this process (extracted from the Design Competition Report):

- *The demonstrated alignment with the Concept DA and the re-distribution of the massing out of the central view corridor towards other parts of Stage 3 and Stage 4.*
- *The overall urban arrangement and the spatial relationships between each building.*
- *The distinct character of each building which results in a composition of complementary group of buildings, including the Stage 3 South building's unique relationship to the sky.*
- *The arrangement of Market Square and the perimeter colonnade.*
- *The address of the Stage 4 South building to the corner of Newcomen and King Streets and its relationship with the Newcastle Club.*
- *The consolidation of basement access to enable optimal activation opportunities.*
- *The internal amenity of the apartments.*

The Jury also outlines several matters which were to be further considered and refined as part of the Detailed DA. These matters and the relevant responses prepared by SJB are summarised in Table 1.

Table 1 – Response to Jury Recommendations from Design Competition Report

Jury Recommendation for Design Development	SJB, DBJ & Curious Practice Response
<p>In addition to continuing to inform the design through the Indigenous design team member, as the design is developed, further First Nations community consultation and response as outlined in the Connecting with Country Draft Framework should be pursued.</p>	<p>The Design Team provided a strong Connecting with Country response. This was strengthened by the engagement of Cola Studio after the Design Competition concluded.</p>
<p>A Landscape Architect should be immediately integrated into the design team. The landscaping and planting indicated in the public domain and on buildings requires further consideration. Adequate soil volumes, sufficient structure to support landscape loads and drainage penetrations, safe and practical access for maintenance, and automatic watering should be incorporated.</p>	<p>The Design Team integrated Cola Studio, landscape architects into the broader team to ensure landscaping and planting within the public domain was given careful consideration.</p> <p>The landscaping strategy now shows appropriate soil volumes, drainage and practical for maintenance, systems have been put into place to support the overall precinct.</p> <p>The Panel were very supportive of how the overall landscape scheme has been progressed and refined over the sessions.</p>
<p>Vehicle and pedestrian arrangements need to be considered further, particularly concerning universal accessibility and the relationship to other stages of East End.</p>	<p>The Design Team considered the precinct as a whole specifically vehicular and pedestrian mobility. The level changes across the site have been carefully considered and responded to.</p> <p>The Design Team, at CN's request, revised the scheme to accommodate a Heavy Rigid Vehicle (HRV). The DIP was encouraging of a Medium Rigid Vehicle (MRV) due to the superior public domain outcome, however CN were not accepting of this.</p>
<p>The relationship between Hunter Street and Market Square requires further consideration and with the aim of provide a seamless ground level transition, eliminating the need for steps and ramps.</p>	<p>After further design refinement, the Panel were satisfied with the level transitions throughout the site and surrounding precinct. The relationship between the site and surrounding City of Newcastle land, will be further progressed with the input of the UDRP and Council's officers.</p>
<p>The height exceedance of the Stage 3 South building in particular should be further considered. The way this building met the sky was unique and successful however the height of the building may be reduced by further distributing the GFA across other buildings on-site. While there is some variation to the height limit, this is was potentially warranted given the benefits afforded by the change to the approved Concept DA the Jury notes</p>	<p>After a rigorous assessment and refinement process, the Panel supported the height exceedance of Building 3 South subject to further view impact assessment, required for DA stage. A Visual Impact Assessment has been completed by Urbis and accompanies this application.</p>

Jury Recommendation for Design Development	SJB, DBJ & Curious Practice Response
<p>that view impacts have not been fully explored or demonstrated, and there may need to be further resolution of heights and the location of any exceedances. The Jury notes that the relative height variation between Municipal building and the Stage 3 South building are successful. If a distribution of height is explored, a height difference between these buildings must be retained to create to architectural and scale variety.</p>	
<p>The stepped facade of the Stage 3 South building requires further consideration in terms of maintenance and increased potential for bird roosting.</p>	<p>The 3 South Building will continue to be stepped in nature; however, management strategies have been proposed to reduce the potential for bird roosting. The Panel supported the proposed design and management techniques.</p>
<p>The Design Team should further consider the use of the Municipal building. If this building is converted from commercial to residential, the apartments must have the same high-quality amenity as the apartments provided across the precinct.</p>	<p>The Design Team refined their design to now include apartments within the upper levels of the Municipal Building. The Panel was satisfied that the apartments achieve a high level of amenity</p>
<p>The Stage 3 West building requires further resolution in terms of the interface with Thorn Street.</p>	<p>The Panel supported the design development of the Stage 3 West Building which now provides continuous retail activation from the corner of Thorn Street and Hunter Street, and extends along Hunter Street, Market Square and Laing Street.</p> <p>The retail tenancy along Hunter Street provides activation with full height glazing that can be operable. Accessible entry to the retail tenancy is provided from Market Square. At the corner of Hunter Street & Thorn Street the retail glazing is recessed providing an entry space, and greater permeability for the public domain.</p> <p>Landscape is provided selectively along Thorn Street. It is set out to provide a buffer to the carpark entry but maintains sight lines and connection to the residential lobbies.</p>
<p>The materiality of the Stage 4 North building requires further refinement. The Jury recommends as it pre-cast and in-situ approached are explored and notes that any colouring should aim for the successful outcome evident at 'Perkins and King' in Stage 1.</p>	<p>The Panel supported the refined design and materiality of Stage 4 North.</p>

Jury Recommendation for Design Development	SJB, DBJ & Curious Practice Response
<p>The Design Team should further explore the Stage 4 North building's approach to prospect and refuge to balance apartment amenity.</p>	<p>The Panel supported the design development of Building 4 North. The building now provides a compelling design response and the Design Team have provided a good rationale to 'prospect and refuge.'</p> <p>The Panel were satisfied that the 4 North Building achieves a high level of apartment amenity.</p>
<p>The Stage 4 South building requires further consideration of the building's articulation.</p>	<p>The Panel supported the design development of Building 4 South.</p>
<p>The courtyard of the Stage 4 South building should be secure for residents, but visually open to the exterior. The success of the internal courtyard and internal circulation is critical and needs to be designed in conjunction with a landscape architect.</p>	<p>The Design Team have refined the courtyard of the Stage 4 South Building, the Panel support the internal courtyard and circulation arrangement.</p> <p>The residential entry for the Stage 4 South Building includes a double height space with arched soffit that leads from King Street through to the courtyard space. A covered awning is provided to the residential lobbies, with continuous planting along the transition from King Street to dwelling.</p> <p>The residential lobbies have been further investigated and now accommodate an opening in the fire stair to allow additional light and views from the residential lobby into the courtyard.</p> <p>The walkway between the lobbies has also been refined with additional glazing and a narrowing of the walkway to reduce bulk. The gallery and courtyard still allows for ventilation to apartments with high level windows along the walkway.</p>
<p>The heritage wall on the King Street should be further discussed with City of Newcastle with consideration given to the removal of the wall and resultant stairs to create a typical footpath condition that improves pedestrian amenity.</p>	<p>The Design Team have given consideration to the heritage wall on King Street and are proposing to remove the existing stairs located along King Street and lower the footpath to integrate with the existing kerb which will allow for a continuous footpath along King Street. This outcome was one that was heavily supported by the DIP.</p> <p>Stage 4 South has also been designed to allow for the adjustment of the public domain levels in consultation with council during the assessment period.</p> <p>The Panel supports the design development and the relationship between the site and surrounding City of Newcastle land, should be further</p>

Jury Recommendation for Design Development	SJB, DBJ & Curious Practice Response
	progressed with the input of the UDRP and Council's officers.

3.4. DESIGN INTEGRITY PROCESS

The proposal has gone through six Design Integrity Panel meetings, as outlined below:

- **14 October 2022:** Design Integrity Panel #1
- **26 October 2022:** Design Integrity Panel #2
- **14 November 2022:** Design Integrity Panel #3
- **09 December 2022:** Design Integrity Panel #4
- **20 January 2023:** Design Integrity Panel #5
- **24 February 2023:** Design Integrity Panel #6

The DIP comprises of three Panel members. In accordance with the endorsed Terms of Reference (ToR), this includes three members of the Competition Jury and has been selected in consultation with the GANSW and CN. The members of the DIP are as follows:

- Paulo Macchia (Chair and GANSW Representative) – Director, Design Governance – Government Architect NSW
- Dr Philip Pollard (City of Newcastle Representative) – Director & Nominated Architect 5241 – AMENITY urban & natural environments
- Sandra Furtado (Proponent Representative) – Director, Furtado Sullivan Architects

The DIP sessions were held online and attended by key members of the SJB, DBJ and Curious Practice Architecture team and the applicant. Key stakeholders were also invited to attend the DIP session via Microsoft Teams as observers (including representatives from CN). Urbis as the DIP manager were also in attendance.

After the six sessions, the DIP endorsed the lodgement of the DA to CN. The design team have addressed the comments relating to design refinement and resolution from the DIP. A summary of the DIP sessions is provided within the Letter of Advice and Endorsement prepared by Urbis and endorsed by GANSW attached to this DA.

4. PROPOSED MODIFICATION

The objective of the proposed modification is to ensure the Detailed DA is consistent with the Concept DA. This modification does not seek approval for any built form, internal floor layout or detailed external façade design, which are subject to a separate Detailed DA lodged concurrently with this modification application.

The proposed modification seeks amendments to the building envelopes approved under D/2017/00701 (as amended).

4.1. OVERVIEW OF MODIFICATION

The proposed modifications to the Concept DA building envelope were known at the time of the competition Design Process. The winning scheme by SJB, Durbach Block Jaggers and Curious Practice re-distributed building massing out of the central view corridor towards other parts of Stage 3 and Stage 4 and toward the Christ Church Cathedral.

Following the competition of the Design Excellence Competition, the winning architects have progressed the detailed design to address the Selection Panel feedback. This has resulted in some refinements to the proposed scheme for which consent is now sought under a concurrent Detailed Development Application. To enable the approval of the Detailed DA, amendments are required to the Concept DA envelope. The amendments are consistent with what was envisaged by the winning scheme at the time of the Competitive Design Process.

Specifically, the proposed modifications include:

- Re-distribution of building massing out of the central view corridor towards other parts of Stage 3 and Stage 4 and toward the Christ Church Cathedral. This amendment will ensure the proposal remains in accordance with the NDCP 2012 and aligns with CN's vision of the view corridor.
- Realignment of Market Square as per the Design Excellence Competition scheme. Market Square is aligned with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral.
- Amendment to the height of building envelope as a result of the redistributed mass and addition 10% design excellence provision, as per below:
 - Building 3 West: 34.30 RL
 - Municipal Building: 20.43 RL (also known as Building 3 East, and previously Building 3 North)
 - Building 3 East: 45.65 RL (previously known as Building 3 North)
 - Building 4 North: 36.92 RL
 - Building 4 South: 51.70 RL
- Amendment to the floor space ratio as a result of the redistributed mass and addition 10% design excellence provision, as per below:
 - Stage 3: 3.27:1
 - Stage 4: 4.36:1
 - Combined: 3.79:1

Note: the Newcastle Local Environmental Plan 2012 (NLEP) prescribed an FSR of 4:1 (excluding design excellence bonuses).

The proposed modifications are discussed in greater detail in the following subheadings.

4.2. DEVELOPMENT STATISTICS

Table 2 illustrates the following development statistics:

- DA2017/00701 (as modified)
- LEP controls
- LEP controls plus 10% as a result of the design excellence provisions
- Proposed amendment (subject to this s4.55(2))

The proposal will delivery a scheme significantly below the FSR potential outlined in the NLEP, despite the height non-compliance in Stage 3 and 4.

Table 2 – Development Statistics

Element	DA2017/00701 (as modified)	Potential under LEP	Potential under LEP + 10% with design excellence	Proposal (Detailed DA)
Site Area	16,611m ²			
Gross Floor Area	63,617m ²	66,444m ²	68,271.21m ² 10% bonus for Stage 1 and 2 attributed to FSR and Stage 3 and 4 to height.	Stage 1: 27,466m ² Stage 2: 13,031m ² Stage 3 + 4: 24,431m ² Total: 64,831m ²
Gross Floor Area allocation across blocks	Block 1: 27,466m ² Block 2: 12,954m ² Block 3: 11,034m ² Block 4: 12,163m ²	66,608m ²	68,271.21m ² 10% bonus for Stage 1 and 2 GFA attributed to FSR and Stage 3 and 4 to height. Stage 1 could have achieved: 28,837.6m ² Stage 2 could have achieved 16,051.2m ²	Actual Block 1: 27,466m ² Actual Block 2: 12,954m ² Proposed Block 3: 10,987m ² Proposed Block 4: 13,444m ² Total: 64,831m ² Note: proposed GFA well below the potential of the LEP and the LEP plus the 10% bonus.
Floor Spaces Ratio (gross)	3.83:1	4:1	4.11:1	3.9:1 Note: proposed FSR well below the potential of the LEP

Element	DA2017/00701 (as modified)	Potential under LEP	Potential under LEP + 10% with design excellence	Proposal (Detailed DA)
				and the LEP plus the 10% bonus.
Floor Space Ratio allocation across blocks	Stage 1: 4.19:1 Stage 2: 3.55:1 Stage 3: 3.3:1 Stage 4: 4.0:1	Stage 1: 4:1 Stage 2: 4:1 Stage 3: 4:1 Stage 4: 4:1	Stage 1: 4.4:1 (10% to FSR) Stage 2: 4.4:1 (10% to FSR) Stage 3: 4:1 (10% to height) Stage 4: 4:1 (10% to height) Combined: 4.11:1	Stage 1: 4.19:1 Stage 2: 3.55:1 Stage 3: 3.27:1 Stage 4: 4.36:1 Note: proposed FSR well below the potential of the LEP and the LEP plus the 10% bonus.
Maximum Building Height allocation across blocks (Stage 3 and 3 only)	Building 3 West: RL + 30.20 Building 3 North: RL + 28.65 and RL + 31.28 Building 3 East: RL + 30.20 Building 4 North: RL + 28.35 Building 4 South: + 42.00	Building 3 West: RL + 30.00 Building 3 North: RL + 20.00 Building 3 South: RL + 30.00 Building 4 North: RL + 29.00 Building 4 South: + 42.00	Building 3 West: RL + 32.48 Building 3 North: RL + 21.40 Building 3 South: RL + 32.30 Building 4 North: RL + 31.12 Building 4 South: + 44.58	Building 3 West: 34.30 RL Municipal Building: 20.43 RL Building 3 East: 45.65 RL Building 4 North: 36.92 RL Building 4 South: 51.70 RL
Carparking (all stages)	616 spaces	N/A	N/A	Stage 1: 286 Stage 2: 157 Stage 3 and 4: 314 Total: 757 spaces
Staging	4 stages	N/A	N/A	No changes – 4 stages still proposed. Block 3 and 3 to be completed concurrence.

4.3. REDISTRIBUTION OF MASSING FROM VIEW CORRIDOR

Through a series of modifications, the Design Team have shifted the approved built form massing to accommodate the view corridor along Market Street to Christ Church Cathedral, aligned with CN's desired

public domain outcome. These changes allow the built form to embrace the geography of place while delivering more residential dwellings with views to the harbour. The proposal delivers a significantly improved public benefit in the form of the ground plane.

The key changes to the approved massing are outlined below:

- The concept DA proposes 3 buildings in Stage 3 of commensurate height, size, type and yield. This includes building a substantial addition on the Municipal Building. This proposal retains the Municipal Building without an addition over. This allows the Municipal Building to be a hinge for Stage 3 and Stage 4 along Hunter Street. The built form surrounding the Municipal building creates a Square.
- Stage 3 West twists to hold the corner of Hunter Street and Thorn Street, increase setback to Stage 2, create views to harbour for apartments, and most importantly creates a visual corridor to the Christ Church Cathedral. The Christ Church Cathedral axis is created by pulling back Stage 3 South. The view corridor is further re-enforced by subtly tapering Stage 3 South (reducing its footprint as it becomes taller) and twisting Stage 3 West.
- Stage 3 South pulls in from the west to align with Municipal Building, establish view corridor to the cathedral and form a new public space.
- Stage 4 North pulls in from the south and carves out the middle to create an urban courtyard. This improves the relationship with existing residential development and Stage 4 South improving amenity.
- Stage 4 South pushes and pulls to establish relationships with the Newcomen Street context, adjacent developments and corner of King and Newcomen Street.

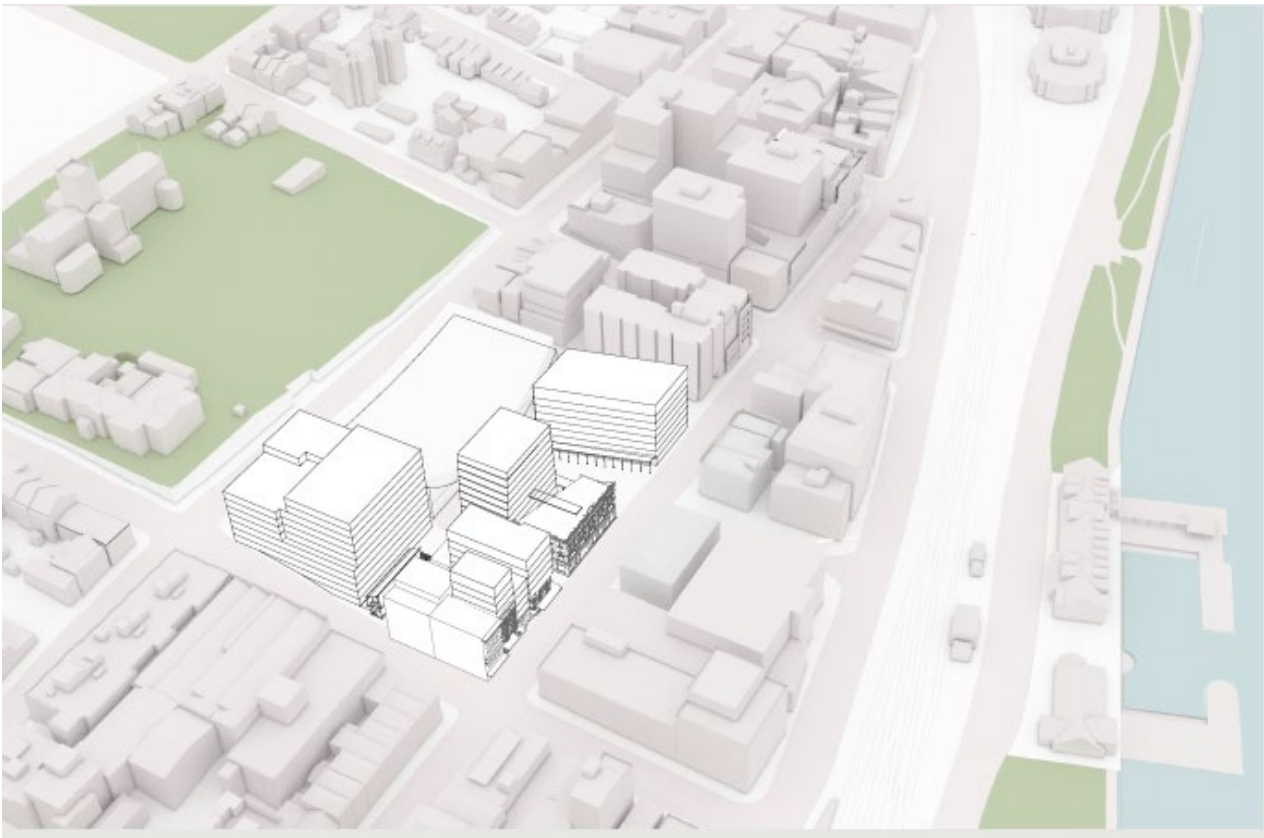
These modifications to the Concept DA massing have resulted in changes to the distribution of height and floor space, these matters are explored in the below subheadings. A comparison between the approved building envelopes and the proposed envelopes for Stage 3 and 4 is illustrated below.

Figure 14 – Approved Building Envelopes



Source: SJB

Figure 15 – Proposed Building Envelopes



Source: SJB

4.3.1. Height Amendment

The modifications to the Concept DA massing have resulted changes to the distribution of height from the view corridor.

In addition, the Concept DA did not accommodate for the additional 10% allowance under clause 7.5 of the Newcastle Local Environmental Plan 2012 (**NLEP 2012**). This additional building height may be granted by the consent authority as part of the competitive design process.

It is anticipated the proposal will achieve design excellence, as determined by the consent authority, given the comprehensive Architectural Design Competition and extensive design development.

Table 3 – Summary of Building Height

Building	Concept DA RL	LEP Height RL	LEP Height RL + 10%	Proposed Height RL
Building 3 West	30.20m	30m	32.48m	34.30 RL
Municipal Building (previously 3 North)	+ 28.65 and RL + 31.28	20m	21.40m	20.43 RL
Building 3 East (previously 3 South)	30.20m	30m	32.30m	45.65 RL
Building 4 North	28.35m	29m	31.12m	36.92 RL

Building	Concept DA RL	LEP Height RL	LEP Height RL + 10%	Proposed Height RL
Building 4 South	42m	42m	44.58m	51.70 RL

4.3.2. Floor Space Amendment

The approved Concept DA permits a maximum floor space ratio (FSR) on the total site of 3.83:1. The allocation of FSR across the site shall generally be '3.3:1' for Stage 3 and '4.0:1' for Stage 4. It is noted that some inconsistencies exist between the Concept DA and the NLEP 2012.

A maximum FSR of 4:1 is applicable to the site under clause 4.4 of NLEP 2012. As demonstrated within the architectural plans prepared by SJB, DBJ and Curious Practice which accompany this application, the proposal has an overall FSR of 3.79:1.

The design excellence bonus on Stage 3 and 4 is to be taken as height. The design excellence bonus on Stage 1 and 2 was taken as FSR/GFA.

East End will comply with the NLEP 2012. This modification seeks to amend the staged breakdown to reflect additional floor space in Stage 4 and a reduced floor space in Stage 3.

Table 4 – Summary of FSR

Building	Concept DA FSR	LEP FSR	Proposed FSR
Stage 3	3.3:1 (11,105m ²)	4:1 (13,460m ²)	3.27:1 (10,987m ²)
Stage 4	4.0:1 (10,181m ²)	4:1 (12,340m ²)	4.36:1 (13,444m ²)
Stage 3 & 4	N/A	4:1	3.79:1
Stage 1 to 4	3.83:1	4:1	3.9:1

4.4. CARPARKING

The Concept DA conditioned that a minimum of 616 on-site car parking spaces are required for East End.

In total, across the four (4) stages of the development 757 spaces are proposed. Of which, 286 spaces have been provided in Stage 1 and 157 spaces in Stage 2. A total of 314 spaces are proposed across stages 3 and 4. The parking will be provided across 3 basement levels in Stage 3 and 3 basement levels in Stage 4.

4.5. PUBLIC DOMAIN

The public domain arrangement as outlined in the following documents is proposed to be amended to accommodate the rearrangement of Stage 3:

- 'Indicative Public Domain Strategy' (Aspect Studios);
- 'Hunter Street Plan' prepared for Newcastle City Council, (Aspect Studios) (as adopted); and
- 'City of Newcastle's Technical Manual City Centre Public Domain' (September 2014)

A new 1,125m² public open space "Market Square" located in Stage 3, oriented in a north-south direction to connect the Harbour visually and physically to Christ Church Cathedral.

The square will accommodate commercial, and community uses that can spill out into the public realm and will be bordered by tree canopy cover. The landscaped elements contained within this central plaza include themed grasses and civic-scaled tree species which respond to the character and embellish the site with elements supported by First Nations community members.

The modified public domain arrangement delivers a significant public benefit. It will improve ground plane activation and permeability through the site. The planning of this space is in keeping with the sites historic and originally intended use. Market Square is left open to possibility and will be able to adapt to the community needs including community markets, food festivals, open air cinema, small concerts and the list goes on.

Market Square provides an accessible path from Hunter Street through to Laing Street. The square has a maximum 1:40 grade ramp throughout with accessible entry into retail tenancies. A stair and ramp are provided at the south of Market Square to provide an accessible connection to Laing Street.

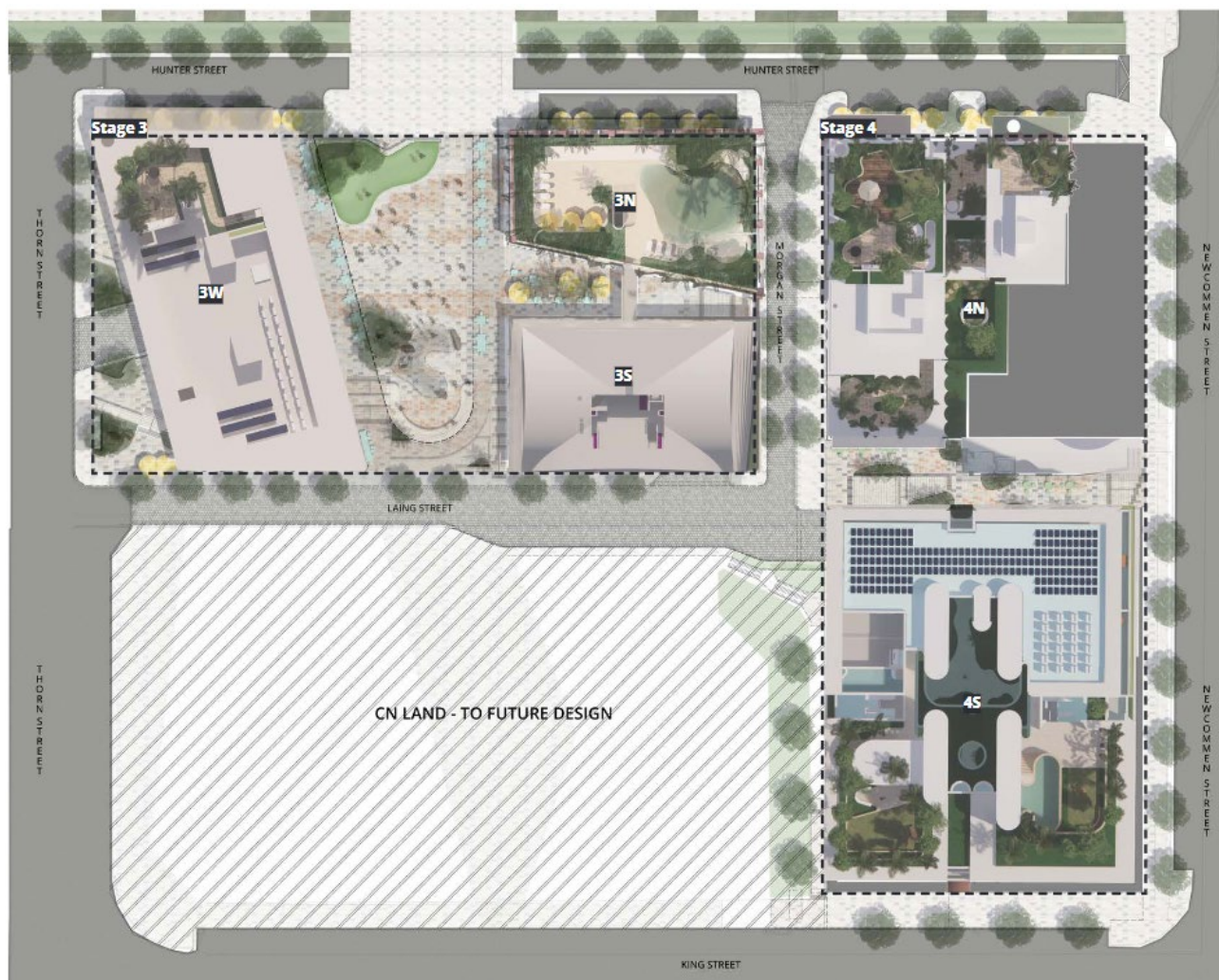
A comparison between the 'Indicative Public Domain Strategy' and the proposed landscape and public domain arrangement for Stage 3 and 4 is illustrated below.

Figure 16 – Aspect Studio Public Domain following Concept DA



Source: Aspect

Figure 17 – Proposed Public Domain



Source: COLA Studio

4.6. AMENDED CONDITIONS

This section of the report outlines the proposed replacement and/or rewording of the conditions imposed by Council in accordance with the modifications outlined in Section 4 of this Statement of Modification. The changes sought are shown with ~~strike through~~ text (deletions) and **red** text (additions).

4.6.1. Condition 1 – Plans and Documentation

The development shall be undertaken substantially in accordance with the details and specifications set out below, except where modified by any condition of this consent.

Drawing Number	Rev.	Drawing Name	Date
DA-0001	03	Contents	19.09.2019
DA-0101	03	Location Plan	19.09.2019
DA-0102	03	Site Analysis Plan	19.09.2019
DA-0103	03	Block Plan	19.09.2019
DA-0200	03	Floor Plan Basement 01	19.09.2019

Drawing Number	Rev.	Drawing Name	Date
DA-0200	04	Floor Plans Basement 01	19.04.2023
DA-0201	03	Floor Plan Level 01	19.09.2019
DA-0201	04	Floor Plans Level 01	19.04.2023
DA-0202	03	Floor Plan Level 02	19.09.2019
DA-0202	04	Floor Plan Level 02	19.04.2023
DA-0203	03	Floor Plan Level 03	19.09.2019
DA-0203	04	Floor Plan Level 03	19.04.2023
DA-0204	03	Floor Plan Level 04	19.09.2019
DA-0204	04	Floor Plans Level 04	19.04.2023
DA-0205	03	Floor Plan Level 05	19.09.2019
DA-0205	04	Floor Plans Level 05	19.04.2023
DA-0206	03	Floor Plan Typical	19.09.2019
DA-0206	04	Floor Plans Level - Typical	19.04.2023
DA-0501	03	Building Envelope Elevation North & East	19.09.2019
DA-0501	06	Building Envelope Elevation North & East	19.04.2023
DA-0502	03	Building Envelope Elevation South & West	19.09.2019
DA-5502	06	Building Envelope Elevation South & West	19.04.2023
DA-0503	03	Building Envelope Elevation Wolfe St East & West	19.09.2019
DA-0504	03	Building Envelope South & West	19.09.2019
DA-0504	05	Building Envelope South & West	19.04.2023
DA-0601	03	Section C & D	19.09.2019
DA-0601	05	Section C & D	19.04.2023
DA0602	03	Section E & F	19.09.2019
DA-0603	03	Section H	19.09.2019
DA-0603	04	Section H	19.04.2023
DA-0604	03	Section J	19.09.2019
DA-0604	04	Section J	19.04.2023
DA-2901	03	Envelope Plan	19.09.2019
DA-2902	03	Privately Owned Public Access	19.09.2019

Drawing Number	Rev.	Drawing Name	Date
DA-2903	03	Indicative Staging Plan	19.09.2019
DA-2904	03	FSR Plan	19.09.2019

Reason for Modification

To reflect the re-distribution of building massing out of the central view corridor, to align with City of Newcastle's vision and DCP. The Amended Concept Building Envelope Plans have been prepared by SJB in partnership with DBJ and Curious Practice and are submitted with this application.

4.6.2. Condition 4 – Floor Area

*This consent permits a maximum gross floor area of ~~63,617m²~~ **64,831m²** over all stages, calculated in accordance with the definition of gross floor area contained in Newcastle Local Environmental Plan 2012. Of the total gross floor area, not less than 8100m² shall comprise retail space and not less than 1160m² shall comprise business/office space which is generally apportioned to each stage as identified in the approved documentation and as depicted on Floor Plans (Job No. 5614) numbered DA-0200 (Basement 01), DA-0201 (Level 1), DA-0202 (Level 2), DA-0203 (Level 3), DA-0204 (Level 4), DA-0205 (Level 5), DA-0206 (Level Typical), Revision 03 dated 19.09.2019, prepared by SJB Architects.*

Allocation of gross floor area across the site shall generally be:

Block 1: 27,466m²

Block 2: 12,954m²

*Block 3: ~~11,034m²~~ **10,987m²***

*Block 4: ~~12,163m²~~ **13,444m²***

Reason for Modification

The proposal delivers a significant public benefit by the redistribution of floor space from within the identified view corridor for the "Harbour to Cathedral Park" to Building 3 South (DBJ) providing a generous and publicly accessible space. CN have a desired public domain outcome for the site, which is reflected in the Newcastle DCP 2012. The desired public outcome is currently restricted by a component of the western end of Building 3 South (**Figure 13**).

The mass of the Building 3 South was redistributed during the Architectural Design Competition to achieve a balance of maintaining the Applicants apartment amenity and CN's desired outcome of the Harbour to Cathedral link. The redistributed mass achieves a balance of preserving the approved massing amenity from the Concept DA and achieving CN's desired outcome.

The approved Concept DA permits a maximum floor space ratio (FSR) on the total site of 3.9:1. The allocation of FSR across the site shall generally be 3.3:1 for Stage 3 and 4.0:1 for Stage 4. It is noted that some inconsistencies exist between the Concept DA and the NLEP 2012.

A maximum FSR of 4:1 is applicable to the site under clause 4.4 of NLEP 2012. As demonstrated within the architectural plans prepared by SJB, DBJ and Curious Practice which accompany this application, the proposal has an overall FSR of 3.79:1.

East End will comply with the NLEP 2012. This modification seeks to amend the staged breakdown to reflect additional floor space in Stage 4 and a reduced floor space in Stage 3. The detailed DA for Stage 3 and 4 are submitted together and have an FSR of entity of East End equates to 3.9:1 therefore comply with the NLEP 2012.

4.6.3. Condition 5 – FSR

*This consent permits a maximum floor space ratio on the total site of ~~3.83:1~~ **3.9:1**, with the maximum floor space ratio for each stage to be in accordance with the 'FSR Plan' prepared by SJB Architects (Job No. 5614, Drawing No. DA-2904, Revision 03, dated 19.09.2019) and is generally apportioned to each stage as identified in the approved documentation and is summarised below:*

Stage 1: 4.19:1

Stage 2: 3.55:1

Stage 3: 3.27:1

Stage 4A: 4.36:1

Reason for Modification

As outlined above, the approved Concept DA permits a maximum floor space ratio (FSR) on the total site of 3.9:1. The allocation of FSR across the site shall generally be 3.3:1 for Stage 3 and 4.0:1 for Stage 4. It is noted that some inconsistencies exist between the Concept DA and the NLEP 2012.

A maximum FSR of 4:1 is applicable to the site under clause 4.4 of NLEP 2012. As demonstrated within the architectural plans prepared by SJB, DBJ and Curious Practice which accompany this application, the proposal has an overall FSR of 3.79:1.

East End will comply with the NLEP 2012. This modification seeks to amend the staged breakdown to reflect additional floor space in Stage 4 and a reduced floor space in Stage 3. The detailed DA for Stage 3 and 4 are submitted together and have an FSR of entity of East End equates to 3.9:1 therefore comply with the NLEP 2012.

4.6.4. Condition 6 – Building Height

This consent permits maximum building heights as shown and referenced as 'Staged DA Building Envelope' on the Building Envelope Plans prepared by SJB Architects (Job No. 5614, dated 19.09.2019) including:

~~a) Drawing No. DA-0501, Revision 03, Elevation North and East;~~

a) Drawing No. DA-0501, Revision 06, Building Envelope Elevation North & East

~~b) Drawing No. DA-0502, Revision 03, Elevation South and West;~~

b) Drawing No. 0501, Revision 06, Building Envelope Elevation South & West

~~c) Drawing No. DA-0503, Revision 03, Elevation Wolfe Street East + West;~~

~~d) Drawing No. DA-0504, Revision 03, Elevation South and West~~

d) Drawing No. DA-504, Revision 05, Building Envelope South & West

Reason for Modification

Under clause 7.5(6) of the NLEP development that exhibit design excellence are eligible for an additional 10% height. Subclause (6) reads:

(6) The consent authority may grant consent to the erection or alteration of a building to which this clause applies that has a floor space ratio of not more than 10% greater than that allowed by clause 7.10 or a height of not more than 10% greater than that allowed by clause 4.3, but only if the design of the building or alteration has been reviewed by a design review panel.

This development has undergone an Architectural Design Competition where four competitors put forward their designs in accordance with a robust Design Excellence Brief and Strategy. The SJB in collaboration with DBJ and Curious Practice scheme was recommended by the Jury as the winning scheme in the competitive design process. The applicant has sort to ensure the highest level of design excellence for this highly strategic site by providing a variety of design responses to respond positively to the opportunity. The scheme has also been reviewed by the established DIP.

The approved Concept DA envelopes have not incorporated the potential for an additional 10% in building height provided under the design excellence provisions in the NLEP. This additional building height may be granted by the consent authority as part of the competitive design process.

In addition to the 10% provision, the reasons for the additional building height are outlined below:

- The Applicant holds a valid Concept DA that was approved in 2018, which has generally determined the proposed bulk and scale. The Applicant initially submitted a Design Competition Brief to CN which complied with Concept DA. Subsequently, CN advised of their desired public domain vision and

requested the Applicant amend the Design Competition Brief to retain the amenity of apartments under the Concept DA and encourage competitors to explore variations to the approved Concept DA.

- The redistribution of the approved GFA enhances the characteristic of Newcastle's silhouette and does not deliver a 'flat top' planning envelope. The redistribution of height across Stage 3 reinforces the notion of a playful skyline, creating a positive contribution to Hunter Street when compared to the Concept DA scheme.
- The scheme has been through six Design Integrity Panel (DIP) sessions with Paulo Macchia (GANSW), Dr Philip Pollard and Sandra Furtado. During DIP Session 1 the following observations regarding the height exceedance were made:
 - *The DIP commented that removing a storey from Building 3 South does not improve the urban design outcome of the proposal based upon the information presented.*
 - *The DIP supports the Competition Scheme height exceedance and arrangement based on the illustrated views from Hunter Street, and Newcomen Street provided. However, the visual impacts need to be further explored via a robust a view assessment.*
- After a rigorous assessment and refinement process, the DIP are comfortable with the height exceedance of Building 3 South subject to further view impact assessment, required for DA stage. The DA is accompanied by a Visual Impact Assessment prepared by Urbis. The DIP has confirmed that the fundamental elements of design excellence have been retained and in the opinion of the Panel the scheme can achieve design excellence.
- The proposal delivers a significant public benefit by the redistribution of floor space from within the identified view corridor for the "Harbour to Cathedral Park" to Building 3 South (DBJ) providing a generous and publicly accessible space. CN have a desired public domain outcome for the site, which is reflected in the Newcastle DCP 2012. The desired public outcome is currently restricted by a small component of the western end of Building 3 South. For context, Building 3 South was placed and approved in the current location with CN's endorsements to obscure the existing CN carpark to the south of the site. This context for CN has changed since the approval of the Concept DA, and demolition of the car park is now complete with exploration of redevelopment opportunities being explored by CN.
- The additional height is supportable from a visual impact perspective due to the limited impacts from a public and private view perspective. The proposed redistribution of massing from the view corridor, as approved by the Concept DA, results in an improved public view.

4.6.5. Condition 10 – Built Form

Elevations submitted with Blocks 2, 3 and 4 shall confirm the provision of minimum 4m floor to ceiling heights at ground floor level. ~~and minimum 3.3m at first floor level for all new buildings.~~

Reason for modification

The purpose of this amendment is to reflect the proposal, which is not able to achieve a minimum floor to ceiling height of 3.3m at first floor level. Amended plans have been prepared by SJB in partnership with DBJ and Curious Practice and are submitted with this application.

The proposal complies with the relevant Building Code of Australia provisions and the reduction will not impact the functioning of the proposed buildings.

4.6.6. Condition 18 Overall Onsite Car Parking

*On-site car parking is to be provided for a minimum of ~~616~~ **757** vehicles across the four (4) stages of the development and shall be generally in accordance with the details indicated on the submitted plans and documentation, except as otherwise provided by the conditions of consent.*

Reason for Modification

Stage 3 and 4 propose 314 car parking spaces, equating to a 141-space increase for the East End precinct.

The off-street car parking rates applicable to the proposed development are specified in the Newcastle DCP 2012, Section 7.03 Traffic, Parking and Access document (as amended at City of Newcastle's Ordinary Council Meeting held on 27 September 2022),

Condition 19, as outlined below, specifies that the number of car parking spaces shall be provided within each stage in accordance with the requirements of section 7.03 of Newcastle DCP 2012 or the applicable standard at the date of DA lodgement for each stage. The Traffic and Parking Report attached to the Detailed DA outlines the calculation of parking for the new development.

Condition 19 – Car Parking Allocation

The number of car parking spaces shall be provided within each stage in accordance the requirements of Section 7.03 of Newcastle Development Control Plan 2012 (NDCP 2012) or the applicable standard at the date of lodgement of the application for each stage. The submitted plans and Traffic and Parking Impact Assessment for each stage shall detail the number and location of spaces required in accordance with this condition:

- a) 100% of car spaces required for residents are to be provided on site;*
- b) A minimum of 25% of the required number of residential visitor parking spaces shall be provided for residential visitor parking in each of the car parks for each Block contained in Stages 1-4 inclusive. These spaces are not to be subdivided, leased or controlled by or on behalf of particular unit owners or residents. Spaces cannot be allocated or deferred to different Blocks/stages unless there is a specific condition that allows this and has formed part of a separate development consent. The remaining 75% is to be accommodated by the existing Council carpark at the Corner of King and Thorn Streets and on-street parking.*
- c) Stages 1 to 4 of the development shall each provide on-site car parking for the parking for commercial and retail staff at the rate of 50% required by Council's DCP for commercial and retail use unless there is a specific condition that allows this and has formed part of a separate development consent. The remaining 50% is to be accommodated by the existing Council carpark at the Corner of King and Thorn Streets and on- street parking.*
- d) 37 carparking spaces are to be provided for the hotel located within Stage 1 of the development, comprising 29 guest and 8 staff spaces which may otherwise be reduced if justified or approved through a separate development consent or modification after a minimum of two (2) years operations.*
- e) an additional 10 parking spaces and 11 residential visitor parking spaces are to be included in Stage 3, in addition to compliance with Section 7.03 of Newcastle Development Control Plan 2012 (NDCP 2012) or the applicable standard at the date of lodgement of the application for this stage. This additional 10 parking spaces are not to be allocated to residential uses and the allocation is to be approved by Council. This term applies unless otherwise justified or approved through separate development consent that demonstrates it is not warranted based on traffic and parking analysis of Stage 1 including specific information from a minimum of two (2) years hotel operations.*

Note – no change proposed to Condition 19, however CN should be aware that the 13 commercial car parking spaces are the subject of a separate section 4.55 currently under assessment.

Based on the proposal for 195 apartments and 1,515m² commercial/retail across both stages, the proposed Stage 3 and Stage 4 development requires the provision of 283 car parking spaces. The rates outlined within the NDCP 2012 are based upon averages.

With respect to residential parking, it is acknowledged that any surplus in car parking over and above the DCP's minimum requirements will need to be counted as GFA. In this regard, circulation space for tandem parking spaces is already accounted for in the initial space, therefore the applicable rate for tandem spaces should be 13m² per space. The applicable rate for side-by-side spaces, however, should be 36m², as they are deemed to require additional circulation area. This has been reflected in the GFA numbers. For further detailed on this matter, refer to the Traffic and Parking Assessment attached to the Detailed DA.

The proposed parking numbers are reflective of the market demand for the development, and should be acceptable by CN as when compared to the approved Concept DA scheme, the proposal results in a nett reduction of vehicle trips during the weekday morning and afternoon peak periods.

4.6.7. Condition 42 – Public Domain

The development application for Stage 3-4 identified on the 'Indicative Staging Plan' prepared by SJB Architects (DA-2903, Revision 00, dated 15.5.17) shall include the dedication of land to Newcastle City Council which comprises 'Market Square', as shown on Floor Plan Level 01 prepared by SJB Architects

~~(Drawing DA-0201 Revision 00, dated 15.5.17~~ **Drawing DA-0201 Revision 04, dated 19.04.2023**). Prior to dedication the land is to be constructed to finished levels to Council's satisfaction and at no cost to Council.

Reason for Modification

The public domain plans need to be updated to reflect the redistributed building mass specifically for Stage 3 which amends the configuration of 'Market Square.'

The proposal includes the creation of a new urban plaza 'Market Square' and will improve ground plane activation and permeability through the site. The planning of this space is in keeping with the sites historic and originally intended use. Market Square is left open to possibility and will be able to adapt to the community needs including community markets, food festivals, open air cinema, small concerts and the list goes on.

The configuration of 'Market Square' has been amended to align with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral.

4.6.8. Condition 43 – Public Domain

The development application for each stage must address the principles and design requirements of the following documents:

- a) 'Indicative Public Domain Strategy' (Aspect Studios) **(not relevant for Stage 3 & 4);**
- b) 'Hunter Street Plan' prepared for Newcastle City Council, (Aspect Studios) (as adopted); ~~and~~
- c) 'City of Newcastle's Technical Manual City Centre Public Domain' (September 2014); **and**
- d) Stage 3 & 4 Landscape Public Domain Plans prepared by Cola Studio dated January 2023**

Reason for Modification

The public domain plans need to be updated to reflect the redistributed building mass specifically for Stage 3 which amends the configuration of 'Market Square.'

The proposal includes the creation of a new urban plaza 'Market Square' and will improve ground plane activation and permeability through the site. The planning of this space is in keeping with the sites historic and originally intended use. Market Square is left open to possibility and will be able to adapt to the community needs including community markets, food festivals, open air cinema, small concerts and the list goes on.

The configuration of 'Market Square' has been amended to align with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral.

The Indicative Public Domain Strategy prepared by Aspect Studios is now outdated for Stage 3 and 4, and is superseded by Cola Studio's drawing package from January 2023.

4.6.9. Condition 44 – Public Domain

*Through-site connections on privately owned land shall be a minimum of 5m in width and shall be clear of obstructions, except for the pedestrian only link between Newcomen and Laing Streets, which shall be a minimum of 3m in width, clear of obstructions. Such through-site links shall be located as shown on the 'Privately Owned Public Access Plan' prepared by SJB Architects (Drawing No. DA-2902 Revision 03 dated 19.09.19) **for Stage 1 and 2 and Level 02 Floor Plan prepared by SJB Architects (Drawing No. DA-0202 Revision 04 dated 19.04.2023 for Stage 3 and 4.***

Reason for Modification

The public domain plans need to be updated to reflect the reconfiguration of the Stage 4 through-site link between Newcomen and Laing Streets.

The separation between Stage 4 South and North extends Laing Street providing a secondary fine-grain connection. This area is proposed to be activated by the small cafe building addressing Newcomen Street that acts as a marker, refer to Figure 18.

Disabled accessible lift access is proposed to mitigate the steep change on level and softens the 5-storey expanse of blank wall created by the removal of Blackall House.

Figure 18 – Laing Lane Café



Source: Curious Practice

5. SECTION 4.55(2) APPLICATION

The application has been assessed in accordance with the relevant requirements of Section 4.55(2) of the EP&A Act as set out below. Council may modify a development consent under the provisions of Section 4.55(2) of the Act if satisfied that the development remains 'substantially the same' as originally approved.

5.1. SUBSTANTIALLY THE SAME DEVELOPMENT

The development as proposed to be modified is considered 'substantially the same development' for which consent was originally granted for the following reasons:

- The description and nature of the development is relevantly unchanged in that the proposal continues to deliver a "major redevelopment of Hunter Street Mall, a mixed-use development comprising retail, hotel and motel accommodation, serviced apartments and commercial, public spaces, residential (566 apartments), associated car parking & site works".
- The proposal will continue to have a variety of dwelling sizes and types, allowing for diverse housing options.
- The proposal will still deliver an exceptional public benefit improved from the Concept DA. Through a series of modifications, the Design Team have shifted the approved built form massing to accommodate the view corridor along Market Street to Christ Church Cathedral, aligned with CN's desired public domain outcome. These subtle changes allow the built form to embrace the geography of place while delivering more residential dwellings with views to the harbour. The proposal delivers a significantly improved public benefit in the form of the ground plane.
- The proposal will continue to achieve 10% adaptable housing within Stage 3 and Stage 4.
- The realignment of the building envelopes to ensure mass is not situated across the main view corridor will improve the overall public domain and achieve CN's vision within the NDCP 2012. Market Square forms part of Stage 3 and provides further opportunities for activation. Market Square is aligned with CN's desired public domain outcome and opens the view corridor to the Christ Church Cathedral.
- The proposed land uses of retail and residential are consistent with the objectives of the MU1 Mixed use zone as per the NLEP 2012.
- The proposal will continue to deliver high quality landscaped areas and remain consistent with the approved development and overall design concept.
- The proposed design as amended will not result in unreasonable impacts on the amenity of adjoining developments, specifically the overshadowing impacts will be improved for CN's carpark site to the south of Stage 3.
- The proposed redistribution of massing from the view corridor, as approved by the Concept DA, results in an improved public view towards the Christ Church Cathedral. If the Concept DA arrangement was retained, key views would be greatly impacted, and the Christ Church Cathedral would be obscured.
- 3 private domain views were assessed by Urbis in the Visual Impact Assessment which concluded that:
 - The additional height sought, may impact views from the upper levels of the Segenhoe Flats to Fort Scratchley, a minor extent of open water and built form within the CBD. The additional height sought when viewed from lower levels would likely block views of built form within the CBD, as well as sections of the Hunter River and Nobbys Head. This is deemed as acceptable based upon the VIA assessment criteria.
 - The additional height sought, will block views of open sky beyond and will not block any scenic or highly valued features for the Newcastle Club or The Herald Apartments. This is deemed as acceptable based upon the VIA assessment criteria.
- The additional building height (above the Concept DA) will not result in unreasonable impacts to public spaces adjacent residential developments. The majority of overshadowing falls within the approved concept DA massing with only small increments of shadow falling outside of the approved envelopes.

- The proposal engaged heavily with First Nations persons to ensure connection with Country, which has received glowing endorsement from the First Nations community who assisted with evolving the scheme.

6. SECTION 4.15 ASSESSMENT

The section 4.55(2) application has been assessed in accordance with the matters for consideration listed in section 4.15 of the EP&A Act and as outlined below.

6.1. ENVIRONMENTAL PLANNING INSTRUMENTS

The proposal is consistent with the relevant environmental planning instruments as follows:

- The application has been submitted in accordance with the requirements of section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.
- Pursuant to Section 4.47(2) of the EP&A Act, before granting development consent to 'Integrated Development', the consent authority must obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. In this case, approval under the *Water Management Act 2000* is required due to the basement levels impact on the groundwater levels within the site.

Water NSW provided their concurrence as per section 91 of the *Water Management Act 2000* for the Concept DA. Due to the nature of the proposed modification is not considered that concurrence from Water NSW is required for this Modification Application as it not envisaged that there will be any changes to the advisory conditions provided by the Water NSW at the time of the Concept DA.

Subsidence Advisory NSW provided their concurrence as per section 22 of the *Coal Mines Subsidence Compensation Act 2017* for the Concept DA. Subsidence Advisory NSW is directed to the previous GTA's, Concept DA Notice of Determination and Stamped Plans.

- The proposed modification has no bearing on the potential for the development to comply with the relevant State Environmental Planning Policies, most notably *State Environmental Planning Policy (Resilience and Hazards) 2021*.
- The proposed envelope is in keeping with the amenity of adjoining development. The proposed modification has been assessed against the Newcastle Local Environmental Plan 2012 in Section 6.1.2.

6.1.1. State Environmental Planning Policies

The proposed modifications have been assessed in accordance with the relevant State environmental planning policies (SEPPs) outlined in **Table 5**.

Table 5 – Compliance with State Environmental Planning Policies

SEPP	Approved	Proposed Modification
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (R&H SEPP)	<p>It was determined that the land could be made suitable for the approved development in accordance with State Environmental Planning Policy No. 55 – Remediation of Land, which has now been consolidated into the R&H SEPP.</p> <p>A Detailed Site Investigation (DSI) prepared by Foundation Earth Science accompanies this development application and concludes, the site can be made suitable for the proposed development subject to the preparation of a Remediation</p>	<p>The proposal does not change the extent of excavation approved under D/2017/00701 as no physical works are proposed within this modification application.</p> <p>Considering the above, CN can be satisfied that the land is suitable for the proposed development under clause 4.6 of the SEPP Resilience and Hazards.</p>

SEPP	Approved	Proposed Modification
	Action Plan (RAP). The recommendations of this report. are considered appropriate to be accommodated as a condition of development consent, to be addressed prior to the issue of the relevant Construction Certificate. With the RAP in place, the site will be suitable for the proposed development.	

6.1.2. Newcastle Local Environmental Plan 2012

The modified development remains consistent with the NLEP 2012. The modified development does not seek to change the approved land uses on Site and is consistent with the objective of MU1 Mixed Use zone.

A compliance summary of the proposed development against the relevant development standards is provided in **Table 6** below.

Table 6 – NLEP compliance table

Clause	Provision	Proposed	Complies
Clause 4.3 – Height of Building	<p>Stage 3</p> <p>The buildings on this site have a maximum building height ranging from 20m (RL) to 30m (RL).</p> <p>Stage 4</p> <p>Morgan and Hunter Street corner – maximum height of building is 29m (RL). Newcomen and King Street corner – maximum height of building is 42m (RL).</p> <p>Subject to achieving design excellence, clause 7.5(6) of the LEP provides for an additional 10% bonus height.</p>	<p>Stage 3</p> <p>3 West: 34.30 RL 3 North: 20.43 RL 3 South: 45.65 RL</p> <p>Stage 4</p> <p>4 North: 36.92 RL 4 South: 51.70 RL</p>	<p>Does not comply, however justified in the Clause 4.6 Report prepared by Urbis which accompanies the Detailed DA.</p> <p>Height to buildings has gone through a Design Competition and a rigorous integrity review of 6 meetings and subsequently received endorsement by the DIP. The DIP has determined the proposal can achieve design excellence.</p>
Clause 4.4 – Floor Space Ratio	A maximum FSR of 4:1 applies to the site.	As demonstrated within the architectural plans prepared by SJB, DBJ	Yes.

Clause	Provision	Proposed	Complies
		and Curious Practice which accompany this application, the proposal has an overall FSR of 3.79:1.	
Clause 5.10 – Heritage Conservation	<p>The site is located within the Newcastle City Centre heritage conservation area. Part of the site is a locally listed heritage item (No. I403) at 121 Hunter Street. The item is known as a Municipal Building.</p> <p>The site is surrounded by numerous State and local items.</p>	The proposed changed will not impact the significance of the heritage item or conservation area.	Yes.
Clause 7.5 Design Excellence	Subject to achieving design excellence, clause 7.5(6) of the LEP provides for an additional 10% bonus either height or FSR.	<p>The proposed development is the result of an Architectural Design Competition that was endorsed by Council and the Jury on the 4 June 2022.</p> <p>Subject to achieving design excellence, clause 7.5(6) of the LEP provides for an additional 10% bonus either height or FSR.</p> <p>It is anticipated the proposal will achieve design excellence, as determined by the consent authority, given the comprehensive Architectural Design Competition and extensive design development.</p>	Yes.

6.2. PROPOSED ENVIRONMENTAL PLANNING INSTRUMENTS

No draft environmental planning instruments are relevant to this proposal.

6.3. DEVELOPMENT CONTROL PLAN

Newcastle DCP 2012 provides the core controls for the site. The Concept DA will remain consistent with the provisions and improve the design response to Section 6.01 of the Newcastle DCP 2012.

As outlined previously, Figure 6.01-29 of the Newcastle DCP 2012 outlines the preferred structure plan for the Hunter Street Mall precinct. The blue hatched area is an 'important view corridor to Christ Church Cathedral'. The Applicant initially submitted a Design Competition Brief to CN which complied with Concept DA. Subsequently, CN advised of their desired public domain vision and requested the Applicant amend the Design Competition Brief to encourage competitors to explore variations to the approved Concept DA.

However, subsequently competitors in the design competition were encouraged to carefully examine the current approved building envelope configuration in Block 3 and present creative and sensitively designed responses that provide an alternative massing arrangement in the precinct.

The key moves identified by the Design Team to facilitate this outcome where:

- The concept DA proposes 3 buildings in Stage 3 of commensurate height, size, type and yield. This includes building a substantial addition on the Municipal Building. This proposal retains the Municipal Building without an addition over. This allows the Municipal Building to be a hinge for Stage 3 and Stage 4 along Hunter Street. The built form surrounding the Municipal building creates a Square.
- Stage 3 West twists to hold the corner of Hunter Street and Thorn Street, increase setback to Stage 2, create views to harbour for apartments, and most importantly creates a visual corridor to the Christ Church Cathedral. The Christ Church Cathedral axis is created by pulling back Stage 3 South. The view corridor is further re-enforced by subtly tapering Stage 3 South (reducing its footprint as it becomes taller) and twisting Stage 3 West.
- Stage 3 South pulls in from the west to align with Municipal Building, establish view corridor to the cathedral and form a new public space.

In responding positively to the opportunity to unlock the public domain improvements in Stage 3, the design response achieves an equivalency in the provision of ADG compliance, views, aspect, and residential amenity from the distributed massed. The redistributed mass makes a positive contribution toward the desired built form, consistent with the established centres hierarchy. It also results in a better daylight access to both the public domain.

The Concept DA will remain consistent with the objectives of the Hunter Street Mall precinct, being:

1. *Strengthen the sense of place and urban character of the east end as a boutique retail, entertainment and residential destination.*
2. *Diversify the role of Hunter Street Mall precinct as a destination for many activities including retail, dining, entertainment, nightlife and events, additions to regular day-to-day services for local residents.*
3. *Promote active street frontages.*
4. *Protect heritage items and contributory buildings.*
5. *Protect views to and from Christ Church Cathedral.*
6. *Promote a permeable street network in Hunter Street Mall precinct with well connected easily accessible streets and lanes.*
7. *To create a space that is safe, comfortable, and welcoming for pedestrians.*

Based on the above, it is considered the development as modified complies with the relevant provisions within the DCP. A DCP compliance table accompanies the Detailed DA.

6.4. REGULATIONS

This application has been prepared in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulation 2021*.

6.5. LIKELY IMPACTS OF THE DEVELOPMENT

The building envelope as proposed to be modified will result in a built form that responds to its context and improves the amenity of the public domain.

This proposal purely relates to the re-distribution of building massing out of the central view corridor towards other parts of Stage 3 and Stage 4 and toward the Christ Church Cathedral. This amendment ensures the proposal remains in accordance with the NDCP 2012 and aligns with CN's vision for the view corridor and improved public benefit.

Overall, the proposed development results in an improved urban design outcome for the site compared to what exists today and was approved under the original Concept DA. A more detailed assessment of the key impacts is addressed in the following subheadings.

6.5.1. Design Excellence

The endorsed Design Excellence Strategy established the rigorous process which has been undertaken to ensure that the future detailed design of the buildings achieve design excellence. This modification does not seek to amend the Design Excellence Strategy applicable to the site and development.

As discussed in Section 3 the proposed modifications are the result of the Competitive Design Process and seek to ensure consistency between the proposed Detailed DA and Concept DA. The building envelopes as proposed to be amended do not undermine the ability of the future detailed design to achieve design excellence in accordance with the Design Excellence Strategy. The design excellence merits of the proposal have been addressed in the Statement of Environmental Effects prepared by Urbis and accompanying the Detailed DA.

6.5.2. Visual Impact

A Visual Impact Assessment (VIA) has been prepared by Urbis and is included in the accompanying documentation for this application. This provides an assessment of potential impacts on public domain views and provides views because of the development. This assessment has been informed by a review of architectural plans, field work observations and an analysis of CGIs prepared by SJB.

6.5.2.1. Public Views

10 views from representative and significant public places, as identified by the NDCP 2012, were selected for modelling in photomontages and were used for further analysis to consider the extent of visual change, the effects of those changes on the existing visual environment and the importance of those changes, being the final rating of visual impacts.

A summary of the VIA findings for public views is outlined in Table 7.

Table 7 – Summary of View Impacts

View #	Location	Overall rating of significance of visual impact
1	View South Towards Newcastle CBD from Stockton Ferry Wharf	Low
2	View South-West Towards Site from Fort Scratchley Parade Ground	Low
3	View South-West Towards Site from Nobbys Pedestrian Walkway	Low
4	View South Towards Cathedral from Market Place	Low-medium
5	View South Towards Cathedral from Queens Wharf Promenade (Cathedral to Harbour Corridor)	Medium

View #	Location	Overall rating of significance of visual impact
6	View South Towards Cathedral from Queens Wharf Promenade (Cathedral to Harbour Corridor)	Medium
7	View North Towards Site from North Side of the Cathedral	Low
8	View East Towards Site Along Hunter Street	Low
9	View South Towards Cathedral from the Station Public Domain	Low
10	View North Over Site from Cathedral Park Steps	Medium

Source: Urbis

The view assessment concludes that for public views:

- Of the 10 public domain views analysed, 6 views had a low visual impact, 1 view had a low-medium impact and 3 had a medium visual impact.
- The proposed redistribution of massing from the view corridor, as approved by the Concept DA, results in an improved public view from View 4 and View 5 towards the Christ Church Cathedral. If the Concept DA arrangement was retained, View 4 and View 5 would be greatly impacted and the Christ Church Cathedral would be obscured.
- The additional building height predominately blocks views to vegetation or open sky beyond, and generally does not block views of scenic or highly valued features. The additional height is not visible from View 7 and does not result in any view loss or impact.
- The re-massed built forms results in lower visual impacts and a better public domain view sharing outcome. This is achieved by the inclusion of a wide view corridor between the Hunter River and the Cathedral and the protection of NDCP view 21.

It is therefore shown that the proposal can be supported on as the proposed development creates low to medium visual effects on the majority of baseline factors such as visual character, scenic quality and view place sensitivity from public domain view locations.

6.5.2.2. Private Domain Views

Urbis determined that three close neighbouring developments were likely to be affected to some extent by potential view loss. The three buildings include:

- Segenhoe Flats at 50 Wolfe Street (specifically upper-level apartments)
- Herald Apartments at 60 King Street (specifically upper-level apartments)
- The Newcastle Club at 40 Newcomen Street (specifically north facing areas). It should be noted that the Newcastle Club is a commercial premises not a residential premises,

As access to these buildings was not possible, Urbis used available real estate floorplans and photos to understand likely views access and compositions and potential visual impacts of the proposal on those views.

A summary of the VIA findings for private views is outlined in Table 8.

Table 8 – Summary of View Impacts

View #	Location	Indicative view impact for the whole building
1	Segenhoe Flats at 50 Wolfe Street	Minor

View #	Location	Indicative view impact for the whole building
2	Herald Apartments at 60 King Street	Minor or less
3	The Newcastle Club at 40 Newcomen Street	Minor – moderate

Source: Urbis

The view assessment concludes that for private views:

- The additional height sought, may impact views from the upper levels of the Segenhoe Flats to Fort Scratchley, a minor extent of open water and built form within the CBD. The additional height sought when viewed from lower levels would likely block views of built form within the CBD, as well as sections of the Hunter River and Nobbys Head. This is deemed as acceptable based upon the VIA assessment criteria.
- The additional height sought, will block views of open sky beyond and will not block any scenic or highly valued features for the Newcastle Club or The Herald Apartments. This is deemed as acceptable based upon the VIA assessment criteria.

It is therefore shown that the proposal can be supported on view sharing grounds.

6.5.3. Public Domain

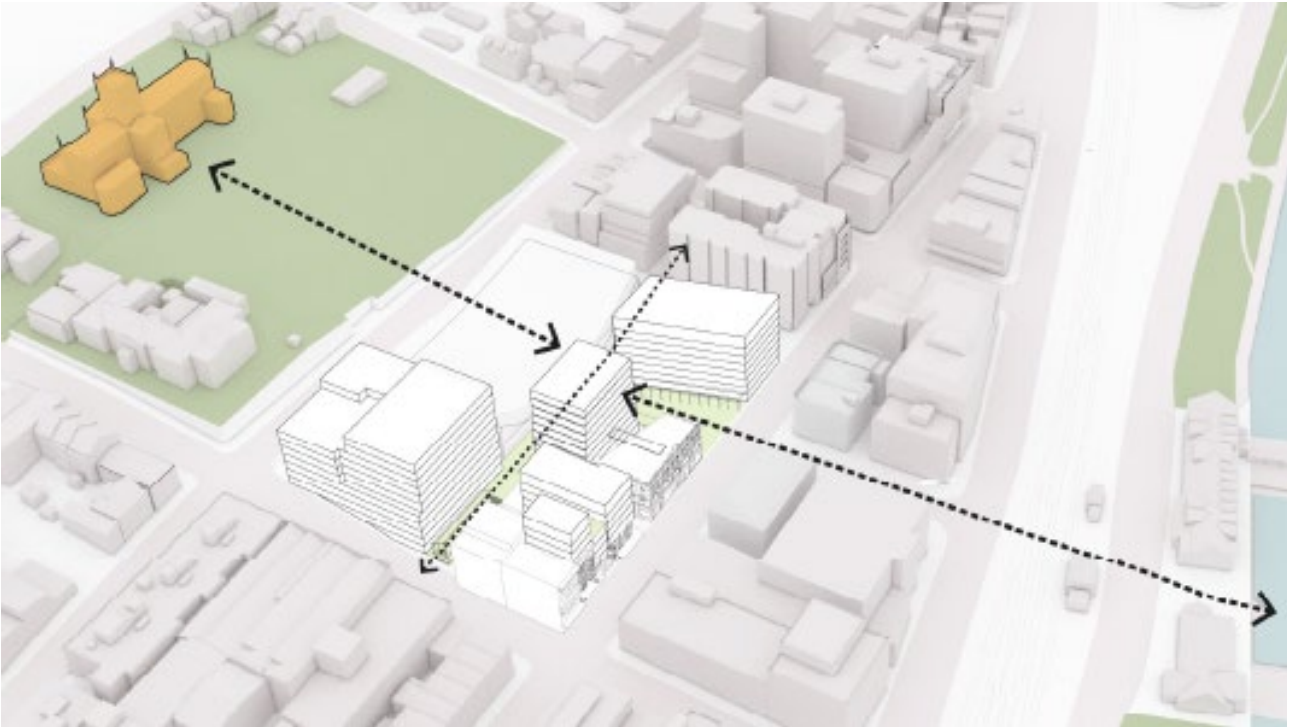
The modification to the Concept DA will allow for the ground plane to increase the vitality of the streets and activate the public domain, with the reconfiguration of Market Square. The modification to the Concept DA results in an improved public domain outcome.

The built form of the proposed development is coherent with the endorsed design scheme of the Design Excellence Competition. The built form outcome directly responds to its surrounding context, urban setting, orientation, and CN's desired public domain outcome. This desired public domain outcome is reflected in the Newcastle DCP 2012 and seeks to enhance public views to and from Christ Church Cathedral and the Newcastle Harbour. The proposed built form directly responds to this vision through the building orientation, separation and design which allows for the construction of extensive public open space between Hunter Street and Laing Street, and eventually King Street following the redevelopment of the Council owned former carpark site.

The proposed built form effortlessly connects with Stage 1 and 2 of East End through offering an alike architectural style and design intent. The Municipal Building at 121 Hunter Street is proposed to be retained without additional built form above, to present as a freestanding building to Hunter Street, also in alignment with CN's intentions to preserve heritage items. The retained façade will achieve this intention.

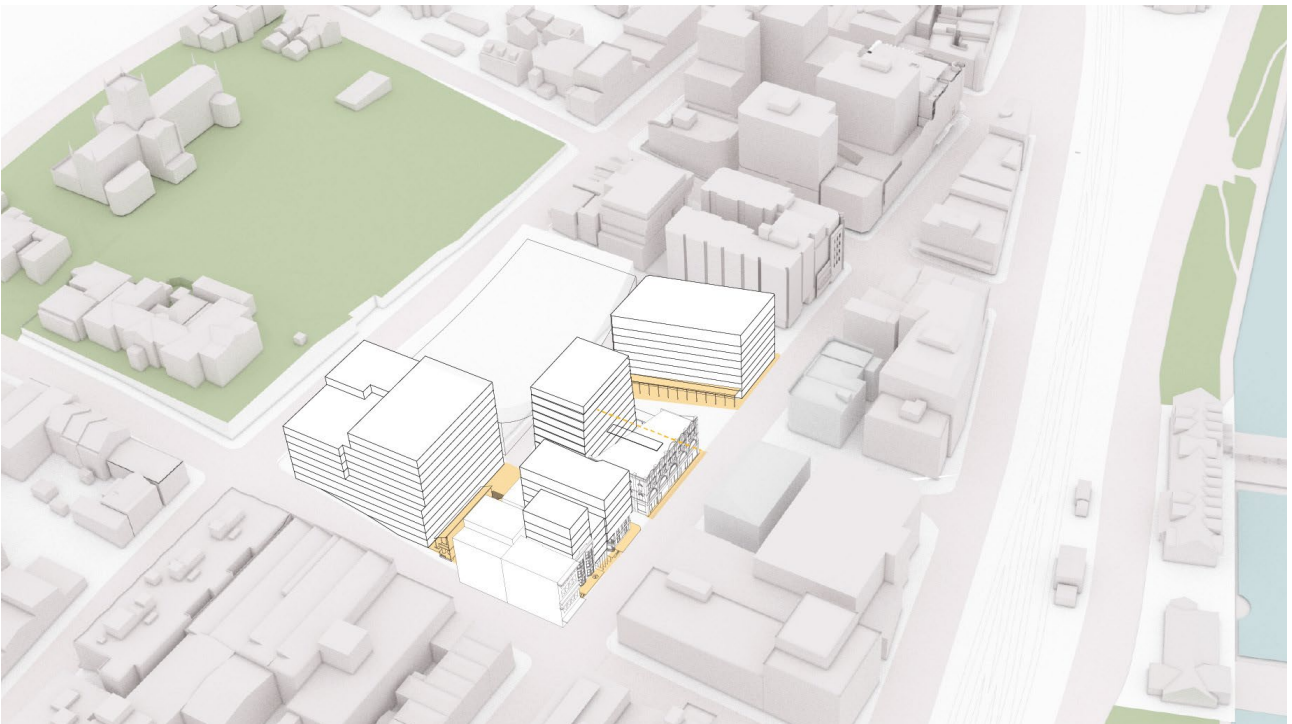
Figure 19 illustrates the connection from the Harbour to the Cathedral through the new Market Square and the future public domain activation resulting from through site links and public domain upgrades.

Figure 19 – Built Form



Picture 13 – Harbour to Cathedral Connection

Source: SJB



Picture 14 – Public Domain Activation

Source: SJB

6.5.4. Overshadowing

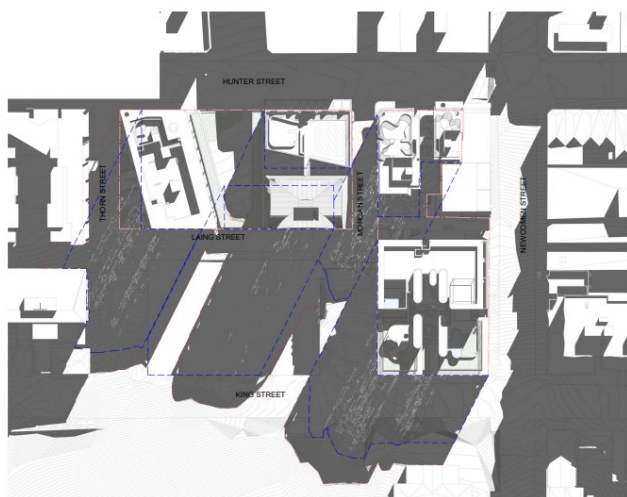
A Shadow Analysis has been prepared by SJB within the Architectural Design Report which accompanies this DA. As pictured below in **Figure 20**, most overshadowing falls within the approved Concept DA massing with only small increments of shadow falling outside of the approved envelopes.

In terms of key surrounding development:

- **CN's carpark site:** the overshadowing impacts are improved with the proposed scheme compared to the Concept DA because of the redistributed building mass. The retention of the view corridor improves solar access between 9am and 1pm. Considering this, the proposed scheme does not impact the developability of this site more than that identified in the Concept DA assessment, and results in an improved outcome.
- **The Newcastle Club:** the overshadowing impacts are marginally increased, specifically for the northern garden area. However, the additional shadowing does not prevent the northern façade of the club receiving solar access between 9am and 3:00pm.
- **The Herald:** the Herald apartments in the south-west corner of the site will be slightly impacted by the additional height, however they will receive more than 3 hours of morning sun between 9am and 1pm.
- **Newcomen Street residents (eastern side):** the eastern side of Newcomen Street will be self-shadowed between 9am and 10am. These residents will receive solar access between 11am and 1pm (3 hours).
- **Newcomen Street residents (western side):** the western side of Newcomen Street will receive morning sun between 9am and 11am. The modification to the Concept DA will not change the solar access provisions for these buildings.

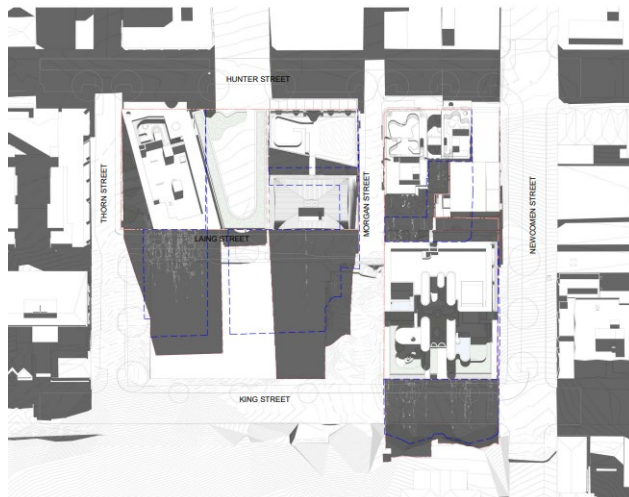
The diagrams also reveal that the proposed overshadowing does not fall onto public open spaces and the proposed Market Square will receive plenty of sunlight during mid-winter making it a pleasant space for residents and visitors to enjoy. This assessment is based upon the winter solstice and improved solar access would be experienced during the summer solstice.

Figure 20 – Shadow Diagrams



Picture 15 – 9am

Source: SJB



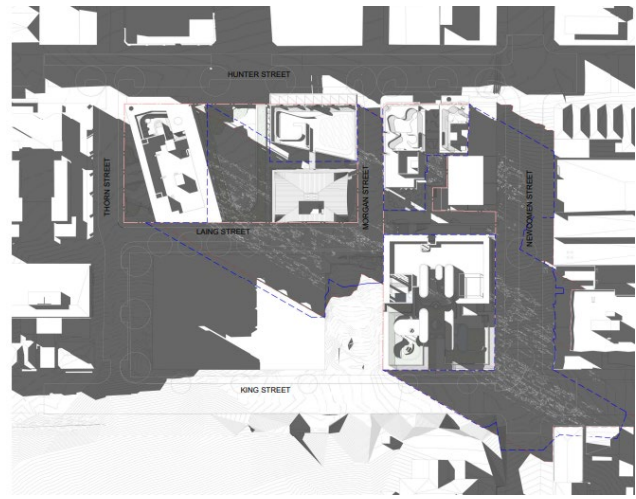
Picture 16 – 11am

Source: SJB



Picture 17 –1pm

Source: SJB



Picture 18 – 3pm

Source: SJB

Specifically, the following conclusions are made:

- At 9am the additional shadow created primarily falls within the road reserves of Kings Street and Laing Street and Morgain Street. The Stage 2 development will still retain adequate solar access and the Herald apartments will not be impacted. The impacts to Newcastle Club will be marginally increased, primarily within the northern garden. The Newcastle Club is a commercial premises and will adequate solar access during the day.
- At 1pm the additional shadow will have some impact on the demolished CN car park site, although most of the site will not be impacted by the shadow. The Stage 2 development will still retain adequate solar access, with no afternoon sun impacts from Stage 3 and 4. The Herald apartments in the south-west corner of the site will be slightly impacted by the additional height, however they will receive more than 3 hours of morning sun between 9am and 12pm. The impacts to Newcastle Club will be marginally increased, primarily within the northern garden. The Newcastle Club is a commercial premises and will adequate solar access during the day.
- At 3pm the additional shadow will have some impact on the demolished CN car park site, although most of the site will not be impacted by the shadow. The Stage 2 development will still retain adequate solar access, with no afternoon sun impacts from Stage 3 and 4. The Herald apartments in the south-west corner of the site will be slightly impacted by the additional height, however they will receive more than 4 hours of morning sun between 9am and 12pm. No impacts to the Newcastle Club will occur. Minor increase to overshadowing impacts to properties on the southern side of King and Newcomen Street. These properties are mixed use in nature. These properties will receive more than 4 hours of morning sun between 9am and 12pm.

The shadow impacts of the proposed development are suitable and consistent with the anticipated level of development envisaged by the LEP. In addition, solar access within the precinct has been improved within the public domain, with minor increased impacts to The Herald apartments.

6.5.5. Skyline and Topography

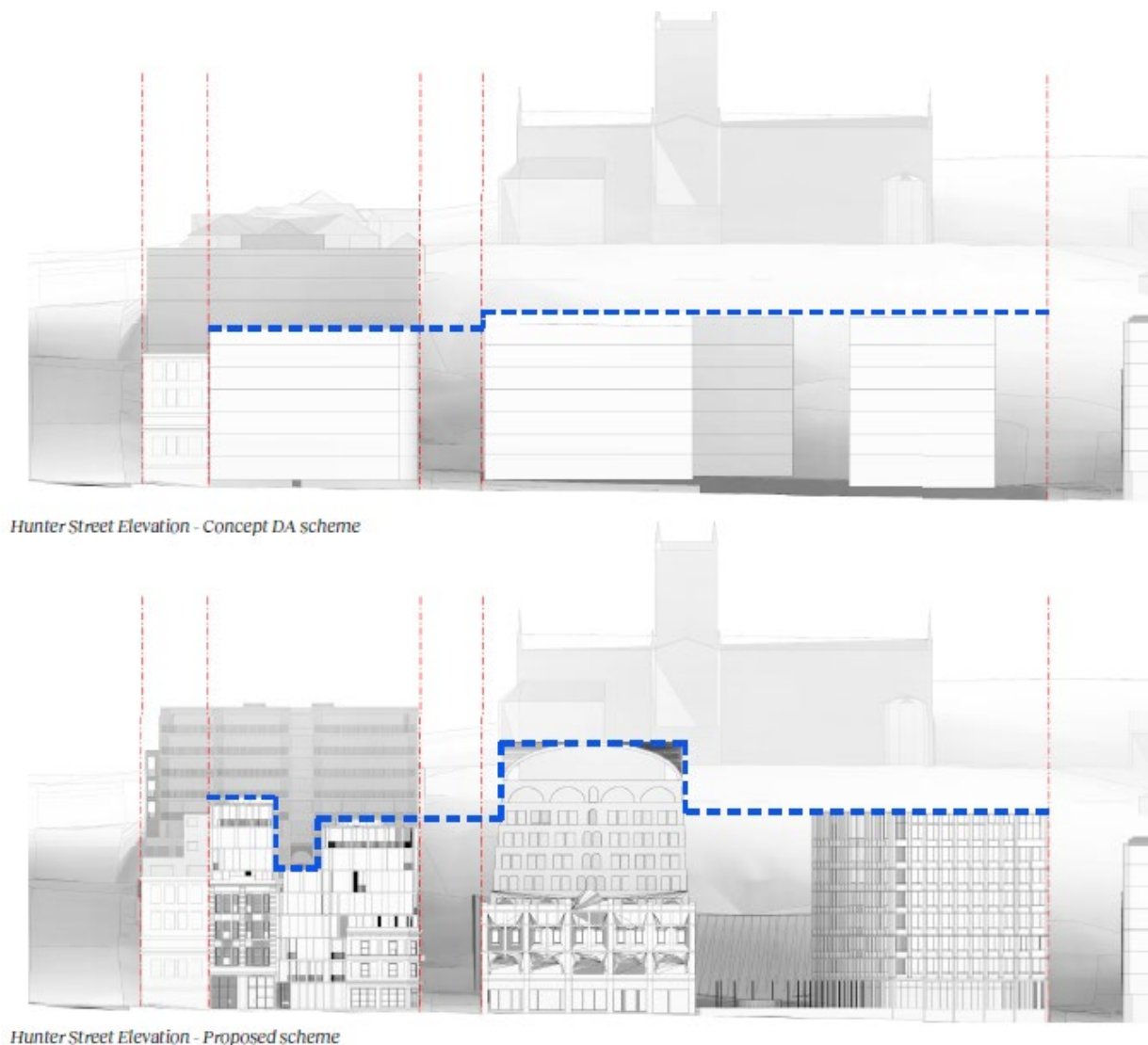
One of the key pieces of feedback from the Design Excellence Competition (by the Jury) was that the height variation across the scheme was positive. Specifically, the following comment was made “the differing heights and rhythms of the proposed buildings, believing the interplay between them works cohesively to create a height amenity precinct if diverse character.”

The redistribution of height across Stage 3 reinforces the notion of a playful skyline, creating a positive contribution to Hunter Street when compared to the Concept DA scheme, refer to **Figure 21**. The Concept DA results in “flat tops” which is not aligned with clause 7.1(c) of LEP: *to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of Newcastle City Centre, and the quality of life of its local population.*

The proposed design response provides a distinctive playful identity for East End which is aligned with the vision for Newcastle City Centre. The skyline also results in a unique and identifiable development

appropriate to a regional city (clause 7.1(e)). Further, the proposed skyline responds to the sloping topography of East End and is characterised by the detailed parapets of the historical buildings.

Figure 21 – Skyline Comparison between Concept DA and Proposed Scheme



Source: SJB

6.5.6. Heritage

Part of the site is a local heritage item, namely a Municipal Building (No. 1403) located at 121 Hunter Street.

The Concept DA and LEP controls allow for additional built form to be constructed on top of the Municipal Building. The Municipal Building has been retained 'freestanding' and unencumbered of additional storeys. This is because of the redistribution of building mass.

In the Design Excellence Competition, the Jury noted that the "relative height variation between Municipal building and the Stage 3 South building are successful."

Given this key move, the building mass above the Municipal Building was distributed and contributed to the height variation of Building 3 East (Bluebell – previously Building 3 South). The adaptive reuse of the Municipal Building will help preserve heritage within the Newcastle's city centre while also enabling the opportunity to diversify the building's purpose. The proposal also respects surrounding heritage items and is conscious of their significance.

This key move provides a positive heritage response and delivers a greater public benefit than complying with the height controls. The response provides a better outcome than the approved Concept DA from a heritage perspective.

6.6. SUITABILITY OF THE SITE

The proposed modification does not alter the existing consent to such a degree that the development as approved would no longer be suitable. The proposed modifications do not seek to alter the intended land use and the proposal remains substantially the same as the development for which consent was granted.

As such, the site remains suitable for the proposed development, as modified.

6.7. SUBMISSIONS

It is acknowledged that submissions arising from public notification of this application will need to be assessed by CN.

6.8. PUBLIC INTEREST

The proposal as modified will result in an increased to public domain outcome for the local community. The key benefits of the project can be summarised as follows:

- The proposal delivers a significant public benefit by the redistribution of floor space from within the identified view corridor for the “Harbour to Cathedral Park” to Building 3 South (DBJ) providing a generous and publicly accessible space. CN have a desired public domain outcome for the site, which is reflected in the Newcastle DCP 2012. The desired public outcome is currently restricted by a small component of the western end of Building 3 South.
- The Design Team have been driven by delivering a ‘civic response.’ The three buildings on Stage 3 have been combined to form a recognisable civic composition in which the Christ Church Cathedral, remote to the Square, plays a critical role.
- The proposal includes the creation of a new urban plaza “Market Square” and will improve ground plane activation and permeability through the site. The planning of this space is in keeping with the sites historic and originally intended use. Market Square is left open to possibility and will be able to adapt to the community needs including community markets, food festivals, open air cinema, small concerts and the list goes on.
- The redistribution of the approved GFA enhances the characteristic of Newcastle’s silhouette and does not deliver a ‘flat top’ planning envelope. The redistribution of height across Stage 3 reinforces the notion of a playful skyline, creating a positive contribution to Hunter Street when compared to the Concept DA scheme.
- The scheme has been through a Design Excellence process. The SJB, DBJ and Curious Practice scheme was recommended by the Jury as the winning scheme in the competitive design process. The design is a result of iterative detailed engagement and input from various CN teams including planning, waste, engineering, and public domain; and the Chair of CN’s UDRP. Stage 3 and 4 will complete the staged revitalisation of Iris’ East End project.
- The project is underpinned by Country. Through several community consultations with Dhiira, Teresa Dargin, Dr. Ray Kelly, Dr. John Maynard, and Peter Townsend (Awabakal LALC) the Design Team have developed a series of segments to assist the development to be a more culturally inclusive space for the local First Nations Community, and all.
- Dhiira has endorsed the scheme stating that “the final submission will include and be reflective of community, their voice is now in design. This project not only created new ways of participating for our people, economic outcomes for the project team through ideation, a chance to imagine and shape the future of the city. The outcomes produced broadly through the design process are incredible conceptualisations of a place that was, this tells a story to all people who will be drawn and access this space and preserve this opportunity to engage for future generations in Newcastle.”
- The Municipal Building has been retained as ‘freestanding’ and unencumbered of additional storeys. This is as a result of the redistribution of building mass. This key move provides a positive heritage response.
- The proposal will deliver high-quality residential dwellings in a convenient, accessible, and naturally beautiful location. Future residents will be afforded the opportunity to live in a high-amenity location, with all the benefits of modern apartment living. The proposal provides a variety of apartment types to suit the needs and lifestyles of existing and future residents of Newcastle.

- The proposal is highly consistent with all strategic planning aims and objectives for the Newcastle City Centre and the Hunter region by providing a diversity of housing, and employment opportunities in a well-connected area.
- The proposal is sympathetic to the surrounding context and is a well-designed scheme that unlocks the site's potential and provide significant community, local and regional social, environmental, and economic benefits.

East End is the next catalyst in the ongoing revitalisation of Hunter Street and the surrounding CBD. Stage 3 and 4 will delivery on the project vision established in the Architectural Design Competition, which was “*to achieve design excellence that raises the bar higher than what has been achieved to date, such that the final outcome is so compelling that owners in Stage 1 and 2 will want to move into this third and final stage in a location that with harbour on one side and ocean on the other, is second to none.*”

7. SUMMARY AND CONCLUSION

The proposed modification has been assessed in accordance with section 4.55(2) and section 4.15 of the EP&A Act and are considered appropriate as summarised below:

- **The proposal is consistent with State, Regional and Local strategic planning policies** – the proposal will contribute toward growing the Newcastle City East through the delivery of a quality mixed use precinct with an activated ground level, providing a positive relationship to the immediate surrounds.
- **The proposal is largely consistent with the applicable State and Local planning controls** – The assessment provided indicates that the proposal is in accordance with the State and Local Planning Controls, it is permissible within the MU1 Mixed Use zone and will deliver retail, business and community uses in response to the zone objectives. The proposal displays a high degree of compliance with the objectives.
- **The proposal will offer a high standard of amenity and net community benefit** – the proposal is providing a high-quality mixed-use precinct that will significantly improve the public domain with community uses along the lower floors of the proposed development.
- **Design excellence has been achieved** - The proponent conducted a comprehensive Architectural Design Competition to inform the detailed design of the proposed development during late-2022. The proposed scheme retains the key architectural elements nominated by the Jury as contributing to design excellence.
- **The proposal will provide a positive economic impact** –The proposal will create a curation of smaller tenancies to deliver a diversity of offerings. The grouping of these businesses will act as a catalyst for future economic growth of the Newcastle East area.
- **The proposal achieves a high level of residential amenity** - The residential element of the proposed development has been designed in accordance with SEPP 65 and the Apartment Design Guide.
- **The proposal is in the public interest** – The proposal will significantly benefit the community providing an activated, pedestrian focused ground floor precinct, with high quality-built form that will deliver residential apartments for the City of Newcastle.

Having considered the above we conclude that the proposed development will not cause any unreasonable social, environmental or economic impacts, it is within the public interest and will deliver an excellent design outcome. The proposal is appropriate for the site and approval is recommended, subject to appropriate conditions.

DISCLAIMER

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All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

