

## DETERMINATION AND STATEMENT OF REASONS

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	15 April 2020
<b>PANEL MEMBERS</b>	Sandra Hutton (acting Chair), Susan Budd, Nicole Gurran and John MacKenzie
<b>APOLOGIES</b>	Jason Dunn
<b>DECLARATIONS OF INTEREST</b>	<p>Alison McCabe declared a conflict of interest as the applicant is a current client of the company she works for, SJB.</p> <p>Juliet Grant declared a conflict of interest as the applicant is a customer of City Plan Services and City Plan Heritage. While Ms Grant does not work for either of those companies, City Plan Strategy is co-branded and co-located, and she has declared a conflict of interest out of an abundance of caution.</p>

Public meeting held via tele-conference on 8 April 2020, opened at 1:50 pm and closed at 3:35 pm.

#### MATTER DETERMINED

PPSHCC-31 – Newcastle – DA2017/00701.02 at 169 Hunter Street, Newcastle – modification to concept approval (as described in Schedule 1)

#### PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel closed the meeting following presentations to deliberate on the matter and formulate a resolution, which would be notified by publishing the decision on the relevant website.

#### Development application

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

The decision was unanimous.

#### REASONS FOR THE DECISION

In supporting the modification, the Panel generally agreed with the environmental assessment and balance of considerations within the Council assessment report, noting it was prepared by external planning consultants who were involved in assessment of the original concept approval and other related assessments. The Panel also considered the reasons for the original decision granted, and was of the opinion that the proposal:

- meets the statutory tests for substantially the same development for which consent was originally granted having regard to the assessment undertaken in accordance with section 4.55(2) of the *Environmental Planning and Assessment Act 1979*;
- is supported by comprehensive professional and expert documentation suitable for concept approval purposes, as expected for a modification to a significant urban renewal project for the Newcastle CBD;
- has been subject to an extensive urban design review process and is generally supported by the Council's Urban Design Consultative Group;
- has been subject to Council's independent heritage advice, following expert and peer review heritage impact assessments, and makes provision for heritage conservation and adaptive reuse

of heritage items identified under Newcastle LEP 2012 and site specific Conservation Management Plan policies, with the modifications not dominating the status of the heritage building as a prominent and landmark corner building;

- the additional proposed floor space and alterations to building envelopes, including street wall heights and upper setbacks, relevant to likely impacts, are reasonable at the concept approval level and in the context of the concept approval, subject to appropriate details. The Panel, whilst supporting the modifications at concept plan level, has retained the protection of existing conditions relating to the ability to seek variations to street wall heights and upper level setbacks only if adequately justified within detailed stage specific development applications;
- retains a publicly accessible accessway (on private land) through Stage 1 of the site. The Panel notes that the variations to ground level detail, introduction of covered colonnade with columns and floor space that alters the visual corridor and volume of the space, do not automatically preclude an acceptable outcome for reasonable access and amenity for users of the modified laneway section on one side, and the laneway more broadly. The Panel, whilst supporting the modifications at concept plan level, acknowledges that the quality of the laneway and the public's experience of it as a safe, comfortable and welcoming space for pedestrians can be assessed on more than width and volume alone as part of detailed stage specific development applications. The Panel has retained the protection of an existing condition requiring the accessway to achieve 5m width clear of obstructions, for which detailed stage specific development applications will need to achieve;
- suitably allocates a previously included land use into Building B. The Panel notes that the land use supports adaptive reuse of heritage buildings with enhanced appreciation by a wider audience. The Panel notes that the modification will further enhance economic revitalisation of the East End precinct and will strengthen the vitality of the area as a boutique retail, entertainment and residential destination and diversify the precinct as a destination for activities including dining, entertainment, nightlife and events, contributing to increased vitality, whilst promoting tourism and employment in proximity to public transport linkages and other city centre amenities and activities. The Panel identifies that likely impacts of the land use including noise, management, safety and parking will need to be considered as part of detailed stage specific development applications;
- provides a balance to the reduced parking proposed in the application for the hotel land use based on an intention to reflect future changing behaviours and city centre location with Councils development control plan requirements, at least for initial operations, having regard to the entire site;
- has acceptable likely impacts to adjoining approved Buildings A and C arising from the alterations to building separation and built form, with privacy and acoustic measures to be considered as part of detailed stage specific development applications; and
- is in the public interest.

## **CONDITIONS**

The development application was approved subject to the conditions in the council assessment report with multiple amendments. A replacement set of conditions is included as Schedule 2 to this determination.

In summary, amendments to conditions from those included in the recommendation report includes:

- Corrections to condition numbering and adding note that plans are approved except where modified by any condition of consent;
- Reflect the approved total site FSR in Condition 5;
- Introduce an amendment to Condition 19 to reflect parking arising from allocation of hotel land use to Building B for allocation in separate stage development applications;
- Introduce new condition 38A to require a construction complaints management and communication protocol and key elements required in that protocol for Stages 3 and 4;





- Other minor amendments include deletion of repeated conditions and legislation references.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel considered submissions for this matter and associated matter PPSHCC-27 jointly. The panel notes that issues of concern included:

- That the proposed development is not substantially the same as the existing approved DA;
- Credibility of JRPP and concerns about the number of modifications and erosion of the original 'agreement' with the community;
- Building setbacks not complied with;
- Increased FSR;
- Increased building heights and extent of % change;
- Heritage impact due to FSR, heights including roof top and southern addition;
- Impacts of rooftop bar, with particular concern for future residents of the applicant's own project who may not be aware of the proposal and not participate in the planning process;
- Objection to inclusion of gaming machines and concern about the type of facility that will really be delivered;
- Narrowing of public laneway;
- Inadequate public exhibition;
- Concern about construction traffic management due to closure of King Street carpark, and concerns on parking relied upon for operations; and
- Failure to comply with construction management requirements and details including shuttle bus and parking management, concerns about established communication including restrictions to effective and respectful operation of liaisons established under other development consents and concerns about lax regulatory control by Council.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting, other than matters were clearly and succinctly expanded upon to aid the Panel's understanding and context to the objections. The panel notes that the construction management issues raised are not a result of a matter arising from the specific modification proposed. Notwithstanding, a new condition has been applied to require a construction complaints management and communication protocol for Council's approval with each stage not already subject to development consent (ie Stages 3 and 4).

PANEL MEMBERS	
 Sandra Hutton (Chair)	 Susan Budd
 Nicole Gurran	 John MacKenzie

### SCHEDULE 1

<b>1</b>	<b>PANEL REF – LGA – DA NO.</b>	PPSHCC-31 – Newcastle – DA2017/00701.02
<b>2</b>	<b>PROPOSED DEVELOPMENT</b>	Application to modify Stage 1 of Concept Plan pursuant to Section 4.55(2); building envelopes and height, distribution of land uses, floor space and FSR
<b>3</b>	<b>STREET ADDRESS</b>	169 Hunter Street, Newcastle
<b>4</b>	<b>APPLICANT/OWNER</b>	Iris Land Pty Ltd
<b>5</b>	<b>TYPE OF REGIONAL DEVELOPMENT</b>	Section 4.55(2) Modification Application
<b>6</b>	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>Newcastle Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Newcastle Development Control Plan 2012</li> <li>Section 94A Development Contributions Plan 2009</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
<b>7</b>	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>Council assessment report: 27 March 2020</li> <li>Council response to questions through Chair: 8 April 2020</li> <li>Written submissions during public exhibition: nine</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In objection – Brian Ladd on behalf of the Newcastle Inner City Residents Alliance</li> <li>Council assessment officer – Michelle Bisson and Priscilla Emmett</li> <li>On behalf of the applicant – Joanne McGuinness, Mel Fyfe, Sam Arnaout, Emily Wombwell, Kerime Danies and Warwick Bowyer</li> </ul> </li> <li>Council response to questions from Panel relating to carparking: 15 April</li> </ul>
<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>Briefing: 25 February 2020 <ul style="list-style-type: none"> <li><u>Panel members</u>: Sandra Hutton (Chair), Susan Budd (by telephone) and John MacKenzie</li> <li><u>Council assessment staff</u>: Ian Clark, Priscilla Emmett, Geoff Douglass and Tracey Webb</li> </ul> </li> <li>Site inspection: 25 February 2020 <ul style="list-style-type: none"> <li><u>Panel members</u>: Sandra Hutton (Chair)</li> <li><u>Council assessment staff</u>: Ian Clark, Priscilla Emmett, Geoff Douglass and Tracey Webb</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>Final briefing to discuss council's recommendation, 8 April 2020, 11:45 am. Attendees:               <ul style="list-style-type: none"> <li><u>Panel members</u>: Sandra Hutton (Chair), Susan Budd, Nicole Gurran and John MacKenzie</li> <li><u>Council assessment staff</u>: Michelle Bisson, Tracey Webb, Priscilla Emmett, Ian Clark, Nadine Page (TCG Planning) and David Ryner</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report

## SCHEDULE 2

### REASONS FOR CONDITIONS

The conditions of this consent have been imposed in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979* (NSW). The conditions relate to any matter referred to in Section 4.15(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

#### Plans and Documentation

1. 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.

Original documents:

- a) Statement of Environmental Effects prepared by SJB Planning dated June 2017;
- b) Heritage Impact Assessment Addendum, Ref: 17-012 dated 13 June 2017, prepared by City Plan Services, and Statement of Heritage Impact (Project No. 14 0181 Issue B, dated October 2015), prepared by TKD Architects;
- c) Archaeological Considerations, dated 9 June 2017, prepared by Umwelt Australia; Comments on Archaeological Consent Conditions dated 9 June 2017, prepared by Umwelt Australia, and Aboriginal and Historical Archaeology Report Number 3303/R01/V6, dated October 2015, prepared by Umwelt Australia;
- d) Addendum to Preliminary Site Investigation (Contamination), Project No. 39826.09, dated 29 May 2017, prepared by Douglas Partners, and Report on Preliminary Site Investigation (Contamination) Project No. 39826.08, Revision 6, dated October 2015, prepared by Douglas Partners;
- e) Summary of Potential 'Ground' Issues, Project No. 39826.09, dated 8 June 2017, prepared by Douglas Partners;
- f) Infrastructure Services Report, Ref: SYD0296 Rev T3, dated 8 June 2017, prepared by ADP Consulting Engineering;
- g) Capital Investment Value Report, Ref: 71130.102037.000 dated 14 June 2017, prepared by Altus Group;
- h) Transport Impact Assessment, Ref N124070, Issue D dated 13 June 2017, prepared by GTA Consultants;
- i) Construction Management Plan, Rev A dated 8 June 2017, prepared by Parkview;
- j) Addendum to Social Plan, Ref: 2126423, dated 28 April 2017, prepared by GHD, and Social Impact Assessment, dated October 2015, prepared by GHD;
- k) Clause 4.6 - Exceptions to Development Standards - Height of Buildings (cl 4.3), prepared by SJB Planning;
- l) Site Survey, Ref 07/158, Sheets 1- 10, 12-17, 19-26 and 28 dated 15 July 2008; Sheet 11 dated 26 March 2014; Sheet 18 dated 15 July 2008; and Sheet 27 dated 26 March 2014 prepared by Monteath and Powys;
- m) Design and SEPP 65 Report, Version 00, dated 10 May 2017, prepared by SJB Architects;
- n) Visual Impact and Street Views Analysis, Version 00, dated 4 May 2017, prepared by SJB Architects and Addendum View Analysis, dated November 2017, prepared by SJB Urban; Indicative Public Domain Strategy, Dwg Nos. 13077-DA01-DA-10 Rev F, dated June 2017, prepared by Aspect Studios;

- o) Shadow Diagrams, dated 18 October 2019, prepared by SJB Architects;

Modified and/or Additional Documents:

- p) Statement of Support, SJB Planning, October 2019;
- q) Traffic Impact Assessment Advice; Ref. 19SYT0055, 18 October 2019, Prepared by TTM;
- r) Quantitative Assessment Changes; SJB Planning; October 2019;
- s) Addendum Heritage Impact Statement, Ref. 19-004, dated 03 October 2019, prepared by City Plan Services;
- t) View Impact and Street View Analysis, SJB Architects, 02 October 2019;
- u) Architectural Plans prepared by SJB Architects, Job No. 5614, listed as follows, except where specifically amended by the conditions of consent as contained in this Notice of Determination.

Drawing No.	Rev.	Name of Plan	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
DA-0201	03	Floor Plan Level 01	19.09.2019
DA-0202	03	Floor Plan Level 02	19.09.2019
DA-0203	03	Floor Plan Level 03	19.09.2019
DA-0204	03	Floor Plan Level 04	19.09.2019
DA-0205	03	Floor Plan Level 05	19.09.2019
DA-0206	03	Floor Plan Typical	19.09.2019
DA-0501	03	Building Envelope Elevation North & East	19.09.2019
DA-0502	03	Building Envelope Elevation South & West	19.09.2019
DA-0503	03	Building Envelope Elevation Wolfe St East & West	19.09.2019
DA-0504	03	Building Envelope Elevation South & West	19.09.2019
DA-0601	03	Section C & D	19.09.2019
DA-0602	03	Section E & F	19.09.2019
DA-0603	03	Section H	19.09.2019
DA-0604	03	Section J	19.09.2019
DA-2901	03	Envelope Plan	19.09.2019
DA-2902	03	Privately Owned Public Access	19.09.2019
DA-2903	03	Indicative Staging Plan	19.09.2019
DA-2904	03	FSR Plan	19.09.2019

## Staging

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

## Site Works

3. Earthworks and the demolition of structures shall be generally undertaken only in stages in conjunction with the development application for each stage for the proposed development. However any earthworks required for site infrastructure, road works, drainage or the like, may be carried out (with consent) in advance of a particular stage, if the relevant areas are subsequently stabilised and grassed or landscaped so that no major areas of earth and soil are left exposed.

## Floor Area

4. This consent permits a maximum gross floor area of 63,617m<sup>2</sup> 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 8100m<sup>2</sup> shall comprise retail space and not less than 1160m<sup>2</sup> 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:

27,466m<sup>2</sup>

Block 2: 12,954m<sup>2</sup>

Block 3: 11,034m<sup>2</sup>

Block 4: 12,163m<sup>2</sup>

5. This consent permits a maximum floor space ratio on the total site of 3.83:1, 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: 3.3:1

Stage 4A: 4.0:1

6. 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;
- b) Drawing No. DA-0502, Revision 03, Elevation South and West;
- c) Drawing No. DA-0503, Revision 03, Elevation Wolfe Street East + West;
- d) Drawing No. DA-0504, Revision 03, Elevation South and West

## Built Form

7. Roof gardens and communal spaces (both enclosed and open) shall be incorporated within new buildings and their prospective sites of each of Stage 1-4 of the development.
8. Architectural plans which are submitted in respect of the southern building on Block 4 shall detail



the provision of a vertical opening in the building's northern facade, similar to that proposed on the King Street facade, to demonstrate a reduction the building's bulk and to provide improved cross ventilation to the central courtyard.

9. A colours and materials schedule shall accompany the development application for each stage of the development. A colour palette utilising primarily warm earthy tones and mid-toned neutrals shall be utilised, with the use of more vibrant primary colours limited to smaller accents at ground level to assist with the visual identification of entries and retail boutiques.
10. 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.
11. Where carparking extends above ground level and is visible from a pedestrian thoroughfare or street, elevations and photomontages are to accompany the development application for that stage, to demonstrate that the carpark is screened or is integrated effectively within the building design and streetscape.
12. Where the building envelope is above a retained heritage facade, then it shall be set back in accordance with Newcastle DCP 2012, being 6 metres, unless otherwise justified or approved through a separate development consent for separate stage of the concept development area.
13. With the exception of the Thorn Street and Laing Street frontages of Block 3, where the building envelope exceeds the maximum street wall height identified in the Newcastle DCP 2012, then the section of any building above that height shall be set back in accordance with the DCP, being 6 metres, unless otherwise justified or approved through a separate development consent for separate stage of the concept development area.

#### European Built Heritage

14. This development consent does not grant consent to any proposed physical works (including as proposed within the concept plan to which this consent applies) to heritage items and contributory items within the site. Heritage contributory items will need to be subject to a detailed assessment of each development application which is to be accompanied by:

- a) A Conservation Management Plan to be prepared for all listed heritage items and contributory items to guide the cultural significance of the items and architectural design of adaptations, alterations and additions and new buildings. The Conservation Management Plan must robustly consider all options for retention, (including interiors), viability of existing use and adaptive reuse. It is necessary for justification for demolition or removal to be supported by a detailed assessment

and investigation, rather than simple statements that the structural systems are unsatisfactory, that services are outdated or regarding general unsuitability.

and

- b) A Statement of Heritage Impact that:
  - i. responds to the recommendations (Section 6.0) of the Statement of Heritage Impact submitted for the Staged Concept Plan (TKD, October 2015) and any other conditions within this development consent;
  - ii. addresses the relevant statutory and non-statutory controls including but not limited to NLEP 2012 and NDCP 2012;
  - iii. is informed by the Conservation Management Plan;
  - iv. pursues opportunities for the interpretation of the precinct through the design of any new elements and public art.

## Aboriginal and Historical Archaeology

15. The recommendations and considerations within the '*Aboriginal and Historical Archaeology Report*' (Umwelt, October 2015) including Section 5.0 'Key Constraints and Opportunities' are to be addressed within each of the future development applications submitted in accordance within the staged concept plan.
16. The development application for each stage of development shall be accompanied by:
  - a) A detailed Historical Archaeological Assessment prepared by a suitably qualified and experienced historical archaeologist for assessing relics of local and State significance. The archaeologist assessment should identify all impacts to the archaeological resource and prepare appropriate mitigation measures for each stage of the development appropriate to the significance of the archaeology present. Archaeological test excavation(s) should be considered to better inform the archaeological potential on the site and the presence or absence of State significant relics. The results of any archaeological test excavation should be used to better inform the design of the development and assist with the retention of State significant relics. In the event that the Archaeological Assessment identifies the potential for State significant archaeological relics within the project area, the applicant must consider how to appropriately manage these remains.
  - b) A detailed intra and extra site comparative analysis of the potential archaeological resource present within the development area.
  - c) Mitigation measures that consider archaeological features and deposits that may continue across the Staged Development Areas in the following hierarchical order:
    - v. The whole of the development area;
    - vi. Within each Newcastle Archaeological Management Plan (AMP) Unit that is being impacted; and
    - vii. For each proposed staged development area within each AMP unit.
  - d) An assessment of whether Aboriginal cultural heritage values are known or are likely to occur in the area of a proposed development application, which should be undertaken by the suitably qualified person. The initial assessment of the likelihood of Aboriginal cultural heritage values should include the following:
    - iv. A search of the Aboriginal Heritage Information Management System (AHIMS) database and any other sources of information available
    - v. Determination of whether the development application includes landscape features that indicate the likely presences of Aboriginal objects
    - vi. A site inspection
    - vii. Consultation with the Aboriginal community.

Where Aboriginal objects are known or are likely to occur in the area of the development application, further investigation should be undertaken by a suitably qualified person. The identification of cultural heritage values should be in consultation with OEH regional officers and informed by the '*Guide to Investigating Assessing and Reporting on Aboriginal Cultural Heritage in NSW*' (DECCW, 2001).

## Car Parking and Access

17. The development application for each stage shall be accompanied by a detailed Traffic and Parking Impact Assessment prepared by an appropriately qualified professional. The assessment shall

incorporate a review of traffic data and the road network, if required to account for any road networks changes affecting the capacity of the road network at the date of lodgement of the development application.

18. On-site car parking is to be provided for a minimum of 616 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.
19. 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.
20. Bicycle parking and motorcycle parking shall be provided in accordance with the requirements of Section 7.03 of NDCP 2012 or the applicable standard at the date of lodgement of the application. Provision shall also be made for end of trip facilities including showers, change rooms and lockers.
21. Detailed plans shall accompany a development application for each respective stage of the development confirming that the car parks are designed to comply with AS/NZS 2890.1:2004 - Parking Facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking Facilities - Off-street parking for people with disabilities.
22. The location of carpark and service access shall be generally as shown in the 'Servicing and Car Parking Plan' contained as Figure 31 of the Statement of Support prepared by SJB Planning, dated

May 2018.

23. Detailed plans demonstrating the location and operation of service areas shall accompany the development application for each stage.
24. Detailed plans shall accompany a development application for each respective stage of the development confirming that sight line distances for access locations promote safe vehicle movements and are in accordance with the relevant Australian Standards (including AS2890:1:2004). Plans shall also demonstrate compliance of access with the requirements of Section 7.03 of NDCP 2012.
25. Detailed plans shall accompany a development application for each respective stage of the development confirming that letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of proposed driveway entrances in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

#### Waste Servicing

26. Waste servicing for Blocks 1-4 shall be undertaken on site, where new buildings are proposed, unless it can be demonstrated that on street arrangements are acceptable to the consent authority and will not conflict with vehicular/pedestrian movements and availability of on street parking. Details of the location and configuration of waste servicing and storage areas shall accompany a development application for each stage of the development.
27. Any stage of the development which is reliant on the proposed changes to the traffic circulation in Laing Street and Morgan Street (including the use of these streets as shareways) will require the approval of Council's Traffic Committee. Documentation and plans detailing the proposed changes to the traffic circulation, signage or line markings shall be submitted with the development application for the respective stage in which it is to be undertaken.

#### Service Infrastructure

28. The development application for each stage shall be accompanied by documentation from service and telecommunication providers which details the available network capacity and upgrades required and which confirms that satisfactory arrangements can be made for the provision of services to the development, including the payment of any contributions towards necessary upgrades.
29. Provision is to be made on the site within each respective stage of development for the installation of a 'kiosk' type electricity substation, should such be required by the electricity authority, and any such 'kiosk' shall be shown on the plans in accordance with that authority's requirements.
30. The development application for each stage shall be accompanied by hydraulic modelling of the local drainage network to identify any deficiencies which will need to be addressed by augmentation or upgrades to the network.
31. A gas demand and supply assessment shall be submitted in conjunction with the development application for each stage.
32. In the event that a public or private utility service or infrastructure item is encountered during the demolition stage of the development the developer shall consult the relevant utility service provider and negotiate an appropriate commercial arrangement for the termination of that service and if required, relocation of that service to a location suitable for the service provider. The developer shall be responsible of the obtaining of any necessary approvals.
33. The development application for each stage shall be accompanied by a Condition Assessment of

## Construction Impacts

34. Prior to commencement of site works for each respective stage of development the developer is to submit to Council for approval a Construction Parking Management Plan (CPMP) addressing the parking of construction vehicles and the transportation of construction personnel to the site. The CPMP is to detail a common location for the parking of construction vehicles outside of the Newcastle CBD area and utilise shuttle buses and for the transportation of construction personnel and their equipment to the site.
35. The development application for each stage shall be accompanied by a detailed Construction Management Plan (CMP) to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The CMP shall include, but not be limited to:
  - a) Details of the manner in which disruption to all surrounding areas (including Hunter Street Mall) will be mitigated;
  - b) Location of material storage and temporary storage sheds;
  - c) Details of site fencing/hoarding, excavation and shoring; and
  - d) Measures to minimise potential odour associated with the operation of machinery or other potential odour sources.
36. The Construction Management Plan shall include a Traffic Management Plan which shall include, but not be limited to:
  - a) Details of site personnel parking, including consideration of public transport options to minimise on street parking
  - b) Location of construction zones and delivery access, including pedestrian/traffic management;
  - c) Proposed traffic control measures which will be in place during the construction phase of each stage of the development to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity; and
  - d) Construction hours, including hours for deliveries.
37. The Construction Traffic Management Plan shall be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with '*Australian Standard 1742.3:2009 - Manual of uniform traffic devices – traffic control for works on roads*'.
38. The Construction Management Plan shall include a Noise and Vibration Management program prepared by a suitably qualified acoustical consultant which details:
  - a) Potential construction noise and vibration impacts;
  - b) Measures for minimising the impact of the construction phase on the amenity of the neighbourhood, generally in accordance with '*AS 2436-2010 - Guide to Noise and Vibration Control in Construction, Demolition and Maintenance Sites*' and the Environment Protection Authority's '*Interim Construction Noise Guideline*' and '*Assessing Vibration: a technical guideline*'; and
  - c) Measures to mitigate dust impacts arising from demolition and construction activities.
- 38A The Environment Management Plan for stages three and four shall include a specific Construction Complaints Management and Communication Protocol with the objective to facilitate positive relationships and respectful communication, for Council's approval. It must at minimum include:

- a) Relevant information from a Community Engagement Plan required under Condition 58 f) of this consent (for the relevant stage) relating to keeping the community informed of construction related project stage progress and potential impacts;
- b) A direct phone number made readily available to the public and neighbours for enquiries and complaints;
- c) A complaints register and protocol for investigating and responding that includes seeking to resolve any issues directly with complainant and providing a response to the complainant;
- d) The method in which the number and protocol will be made available to the community which may include signage on site and on any project specific website; and
- e) That the complaints register and log is to be made available to Council and the public on request.

#### Acoustic Impacts

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

#### Contributions

- 40. All public domain works within private property are to be fully funded by the developer and completed within the applicable stage.
- 41. Pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979 development applications for any stage will be required to pay the applicable contribution as detailed in the 'The City of Newcastle Section 94A Development Contributions Plan 2009' or any other relevant contributions plan that may be applicable to the application.

*Note: The contribution which will be payable for each stage of the development under Section 7.12 of the Environmental Planning and Assessment Act, 1979 will include a contribution towards the undertaking of public domain works within the Newcastle City Centre and may include works identified in the 'Indicative Public Domain Strategy' which are not located within private property and which include the development of Market Square, conversion of Morgan and Laing Streets to share ways, Comen Lane and Morgan Street steps, together with any future local road network upgrades and/or traffic management measures, which are identified in the plan. Alternatively, the developer may enter into a Voluntary Planning Agreement for the undertaking of 'works in kind' in lieu of payment or part payment of a contribution.*

#### Public Domain

- 42. The development application for Stage 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) . Prior to dedication the land is to be constructed to finished levels to Council's satisfaction and at no cost to Council.
- 43. The development application for each stage must address the principles and design requirements of the following documents:
  - a) 'Indicative Public Domain Strategy' (Aspect Studios);
  - 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)

44. 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).
45. Condition deleted with DA2017/00701.02
46. The developer is responsible for the construction of footpath paving for the entire street frontage of the development for the full width of the verge at no cost to Council.
47. Each stage of the development shall be accompanied by a Landscape Plan prepared by an appropriately qualified professional which provides details of landscaping, street tree planting, paving and other public domain works and/or works within private property, to be implemented at no cost to Council.
48. The provision of street trees, lighting, furniture, pavement finishes and landscaping through all stages shall be in accordance with the '*City Centre Public Domain Technical Manual*' and the '*Street Tree Selection Manual*' and be implemented at no cost to Council.
49. Any development application which includes the provision of public spaces, must demonstrate:
  - a) That all public spaces are designed to be interactive and child friendly, and provide multi-purpose furniture and landscape features
  - b) How interpretive and public art works may be integrated as part of the public domain;
  - c) How integration of key public spaces within and to surrounding areas, particularly community services and facilities will be achieved; and
  - d) A program of actions for future events to occur within the public realm which will encourage social integration, activate the public domain, connect the existing local community with future community and establish a unique local character.

#### Safety and Security

50. A formal crime risk assessment (Crime Prevention through and Environmental Design) will be required to be prepared for each stage with a particular emphasis on publicly accessible areas, including at night.
51. The development application for any stage which includes a licensed premises must provide details of each licensed premises proposed, the location and scale of which shall be confirmed in consultation with the NSW Police and Council.

#### Accessibility

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

#### Signage

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

## Adaptable Housing

54. Ten percent (10%) of residential units within each stage are to be developed as adaptable housing in accordance with the recommendations of Council's *'Working Paper: Housing and Neighbourhoods (2014)'*.

## Energy Efficiency

55. Development applications for each stage shall be supported by a concept Green Travel Plan. Consideration shall also be given to the inclusion of a car sharing scheme within Stage 1 of the development.
56. Development applications for each stage shall be supported by an environmental sustainability plan and associated report demonstrating the use of sustainable technologies to be incorporated into the development for the life of the buildings to  
reduce the environmental impact of the development and ongoing use of the development. The report is to consider but not be limited to the use of PV solar generation, roof gardens, rainwater capture and utilisation and other measures for reducing the environmental footprint in the development of the future site specific designs for new buildings in Stages 1-4.

## Social Impact

57. Any residential component within the development is to provide for a range of dwelling sizes and dwelling types. Consideration shall be given to the inclusion of seniors housing and affordable housing schemes.
58. The development application for Stage 1 shall be accompanied by a Strategic Social Plan as outlined in the Social Impact Assessment prepared by GHD dated October 2015 which will specifically address, but not be limited to:
  - a) Assessment of potential impacts on local residents, businesses and organisations;
  - b) Details of how the design of the development considers future residential amenity, safety, security and aesthetics;
  - c) Details of how social issues will be addressed during the proposed development stage and in continuum as each stage progresses;
  - d) Details of upfront community benefits (both short-term and long-term);
  - e) Details of the community consultation process with key stakeholders (including, but not limited to, Renew Newcastle, Newcastle Police, Newcastle Chamber of Commerce), government authorities and the local community to address stakeholder and community issues; and
  - f) Preparation of a Community Engagement Plan to keep the community informed of project stage progress and potential impacts.

## Contamination

59. The development application for each stage must provide a detailed contamination investigation in accordance with the Environment Protection Authority's (EPA) *'Guidelines for Consultants Reporting on Contaminated Sites'*.
60. If the detailed contamination investigation identifies remediation works that are required, then a Remedial Action Plan prepared in accordance with the Environment Protection Authority's (EPA) *'Guidelines for Consultants Reporting on Contaminated Sites'* is to be submitted to the relevant consent authority with the development application for each stage.

## Acid Sulfate Soils



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

#### Geotechnical Constraints/Mine Subsidence

63. The development application for each stage shall be accompanied by a detailed geotechnical investigation which identifies ground constraints and identifies engineering design and management strategies for building works and earthworks.
64. The development application for each stage shall be accompanied by property details, drawings, geotechnical reports and commentary on how the risk of mine subsidence and damage to improvements will be managed. The Geotechnical Report shall include a grouting strategy of any mine workings, which will require the approval of the Subsidence Advisory NSW. The Geotechnical investigation must include reporting on at least one (1) borehole to below the floor of the coal seam. The investigation is to include confirmation of the depth of the coal seam, heights of workings, floor conditions and thickness of competent rock as well as providing details of the pillar dimensions used in any analysis. The report must be to the satisfaction of the Subsidence Advisory NSW and include the measured deviation from vertical and ISG coordinates of any boreholes.

#### Stormwater

65. Development applications for each stage shall be accompanied by a Stormwater Management Plan which includes details of connections to the existing drainage infrastructure, any infrastructure upgrades and details of stormwater harvesting for re- use within the development. Calculations to show the stormwater harvesting volumes proposed to meet the requirements of NDCP 2012 for retention volume shall also be detailed on the plans.

#### Flood Mitigation

66. The minimum floor level for the ground level of the development should be RL 2.6 metres AHD. Similarly, vehicular access to any basement parking areas should also be at or above RL 2.6metres AHD.
67. A flood assessment prepared by a qualified hydraulic engineer shall accompany the development application for each stage of the project.

#### Surrender of consent

68. Development consent for Staged Concept Development Application No.2015/10182 is to be surrendered. A Notice of Surrender of Development is to be submitted within 28 days of the date of this consent.

#### Advisory

- The concept approval does not preclude any legislative requirements related to Integrated Development.

#### **END OF CONDITIONS**