

## HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>Panel Reference</b>	<b>PPSHCC- 60</b>
<b>DA Number</b>	DA2018/01197.02
<b>LGA</b>	Newcastle
<b>Proposed Development</b>	Modification to DA2018/01197 – Addition of third basement level, extension of the basement building envelope to facilitate servicing, increase in office space, floor to ceiling height of the office levels 1-3, reconfiguration of ground floor parking, ramp location, end of trip facilities, and the relocation of lift core.
<b>Street Address</b>	10 Dangar Street Wickham NSW 2293
<b>Applicant/Owner</b>	Dangar Street Wickham Pty Ltd C/o KDC Pty Ltd
<b>Owner</b>	Shoreclan Pty Ltd
<b>Date of DA lodgement</b>	2 October 2020
<b>Number of Submissions</b>	Nil
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	<p>The current proposal modification application is made under Section 4.55(2) and is being referred to the Hunter &amp; Central Coast Regional Planning Panel (HCCRPP) for determination under Section 123BA(2) of the <i>Environmental Planning and Assessment Regulation 2000</i> and the <i>Instructions on Functions Exercisable by Council</i>. The proposed modification seeks a departure over 10% from the prescribed development standards for floor space ratio.</p> <p>Development Application DA2018/01197 was determined by the then Joint Regional Planning Panel as the development is categorised as general development with a CIV in excess of \$30 million. The proposed modification increases the applicable CIV, which is 58,648,270.00.</p>
<b>List of All Relevant Section 4.15 (1)(a) Matters</b>	<p><b>Environmental planning instruments: s4.15(1)(a)(i)</b></p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy (Coastal Management) 2018</li> <li>• Newcastle Local Environmental Plan 2012</li> </ul> <p><b>Development Control Plan: 4.15 (1)(a)(iii)</b></p> <ul style="list-style-type: none"> <li>• Newcastle Development Control Plan 2012</li> <li>• Section 94A Development Contributions Plan 2009</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<p><b>Appendix A</b> – Recommended conditions of consent marked in red</p> <p><b>Appendix B</b> - Recommended conditions of consent</p> <p><b>Appendix C</b> - Documents to be approved submitted with the application</p> <p><b>Appendix D</b> – Transport for NSW (RMS)</p> <p><b>Appendix E</b> – Transport for NSW (Customer Strategy and Technology)</p> <p><b>Appendix F</b> – Sydney Trains</p> <p><b>Appendix G</b> – WaterNSW</p>

<b>Report prepared by</b>	City of Newcastle (CN)
<b>Report date</b>	<b>14 April 2021</b>

**Summary of s4.15 matters****Yes**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Legislative clauses requiring consent authority satisfaction****Yes**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**Clause 4.6 Exceptions to development standards****Not  
Applicable**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Special Infrastructure Contributions****Not  
Applicable**

Does the DA require Special Infrastructure Contributions conditions?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Conditions****No**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

This report is an assessment of a Section 4.55 (2) Modification Application made to City of Newcastle seeking consent for modifications to DA 2018/01197, which was approved for '*Demolition of buildings, erection of 14 storey mixed use development including residential units, retail, and commercial*'. The proposed modifications seek to include an additional basement level with car parking, increase in office space, extend the basement envelope, as well as a reconfiguration of the ground floor car parking.

The application was referred and determined by the JRPP (now known as HCCRPP) on (24 April 2019), pursuant to clause 2 of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* as the development was for general development with a CIV in excess of \$30 million. The proposed modified development will result in an increase to the CIV value of the original development, now being \$58,648,270.

The proposed modification is made under Section 4.55(2) and is referred to the HCCRPP for determination pursuant to the Environmental Planning and Assessment (EP&A) Regulation 2000, Section 123BA(2) in the *Instructions on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels – Applications to Modify Development Consents*.

Pursuant to Schedule 1, clause 3 to this instruction, development that contravenes a development standard by an environmental planning instrument by more than 10% or non-numerical development standards, Council is not to determine the application under section 4.55(2) of the Act. The proposed modification seeks a departure over 10% from prescribed development standards for floor space ratio, accordingly the application is referred to HCCRPP as the determining authority.

Based on a detailed assessment of the proposal against the applicable planning controls, the modified proposal satisfies the applicable legislative requirements.

#### Consultation

The modification application was placed on public exhibition, for a period of 14 days from 8 October 2020 to 27 October 2020 in accordance with the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2000* (EP&A Regs) and the City of Newcastle Community Participation Plan. There were no submissions received during the notification period.

#### External referrals

The application was referred to the following external agencies for comment:

- Transport for NSW (RMS) – Referred under Schedule 3, clause 101 and clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007*. Referral response provided 3 February 2020.
- Transport for NSW (Customer Strategy and Technology) – Referred under Clause 86 of the *State Environmental Planning Policy (Infrastructure) 2007*. Referral response provided 2 March 2021.
- Sydney Trains – Referred under Clause 85 and Clause 86 of the *State Environmental Planning Policy (Infrastructure) 2007*. Referral response provided 5 February 2021.
- WaterNSW – Referred under Section 115 and 116 of the *Water Act 1912 No 44*. Referral response provided 10 March 2021.

### Pre-conditions to granting development consent

The following legislative clauses apply to the development proposal which require the consent authority satisfaction prior to the granting of development consent:

- Part 4 'Regionally significant development' and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 – The development has a CIV over \$30 million including GST (CIV \$58,648,270). Further, the proposed modification is made under Section 4.55(2) and the proposed modification seeks a departure over 10% from prescribed development standards for floor space ratio, accordingly the application is referred to HCCRPP as the determining authority.
- Clause 7 'Contamination and remediation to be considered in determining development application' of *SEPP 55 – Remediation of Land* – A Remediation Action Plan (prepared by Douglas Partners and dated June 2019) has been submitted with the Application. CN is satisfied that the development site will be suitable for the proposed development following remediation works.
- Clause 85 'Development adjacent to rail corridors' – *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) – Clause 85 (2) specifies that the consent authority must not grant consent to development on land that is in or adjacent to a rail corridor, if the development – is likely to have an adverse effect on rail safety, or, involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or, involves the use of a crane in air space above any rail corridor, or, is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities. The matters listed under cl85(2) have been considered during the assessment and the proposed works are acceptable.
- Clause 86 Excavation in, above, below, or adjacent to rail corridors - ISEPP - Clause 86 (2)(b) applies to development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m of rail corridor. Cl 86(4) specifies in deciding whether to provide concurrence, the rail authority must take into account – the potential effects of the development on the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and the safety and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects. The rail authority for the rail corridor being Sydney Trains has provided concurrence.
- Clause 101(2) 'Development with frontage to a classified road' - ISEPP – Clause 101(2) specifies that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it has formed the request satisfaction to a number of matters including the safety and efficacy of the classified road, and the impact of traffic noise and vehicle emissions upon the development. Access is proposed via left-in/left out from Charles Street. However, the proposal has a negligible impact on the efficiency of Hannell Street and is acceptable.
- Clause 14 - Development on land within the coastal use area – development not to increase risk of coastal hazards' of *State Environmental Planning Policy (Coastal Management) 2018* (CM SEPP) - Clause 14 specifies that development consent must not be granted to development on land within the coastal use area unless the consent authority is satisfied that the proposed development will not cause an adverse impact on that land or other land. The proposed development is located within the city centre and as a result of its siting is not considered likely to cause increased risk of coastal hazards.

- Clause 16 'Development in coastal zone generally – coastal management programs to be considered' *CM SEPP* - Clause 16 prescribes that development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land. There are no applicable coastal management programs which apply to the subject site.
- Clause 2.3 'Zone objectives and Land Use Table' of *Newcastle Local Environmental Plan 2012* (NLEP2012) – The development site is zoned B3 Commercial Core Zone– 'shop top housing', 'car parks' and 'commercial premises', are all permissible development types within the B3 zone.
- Clause 6.1(3) 'Acid Sulfate Soils' NLEP2012 – Clause 6.1(3) specifies that development consent must not be granted for the carrying out of works under the clause unless an acid sulfate soils management plan has been prepared and provided to the consent authority. Subject to cl.6.1(4) an Acid Sulfate Soil Assessment (prepared by Douglas Partners dated 19 January 2021) was submitted with the application, which indicates the absence of actual or potential ASS and confirms that the preparation of an ASS Management Plan is not required.
- Clause 6.3(3) 'Earthworks' NLEP2012 - provides several matters that the consent authority must consider prior to granting development consent to earthworks. The matters listed under cl.6.3(3) have been considered during the assessment and the proposed works are acceptable.

### Key Issues

The key issues considered during the assessment relate to:

- Variation to NLEP 2012 Clause 4.4 Floor Space Ratio development standard.
- Variation to NLEP 2012 Clause 4.3 Height of Buildings development standard.
- Variation to NLEP 2012 Clause 7.10 Floor space ratio for certain development in Area A.
- Variation to NLEP 2012 Clause 7.4 Building Separation

The development has been assessed under Section 4.15(1) of the EP&A Act 1979 and is considered satisfactory. Accordingly, it is recommended that the application be approved subject to conditions of consent contained in **Appendix B**.

### **RECOMMENDATION**

That Modification Application No. DA2018/01197.02 which seeks consent to modify DA2018/01197 for 'demolition of buildings, erection of 14 storey mixed use development including residential units, retail, and commercial', by (addition of third basement level, extension of the basement building envelope to facilitate servicing, increase in office space, floor to ceiling height of the office levels 1-3, reconfiguration of ground floor parking, ramp location, end of trip facilities, and the relocation of lift core), at 10 Dangar Street, Wickham (Lot 1 DP 1197377) be approved subject to conditions of consent in the attached schedule.

## 1. INTRODUCTION

This report is an assessment of a Section 4.55 (2) Modification Application made to City of Newcastle seeking consent for modifications to DA 2018/01197, which was approved for 'Demolition of buildings, erection of 14 storey mixed use development including residential units, retail, and commercial'. The proposed modifications seek to include an additional basement level with car parking, increase office space, an extended basement envelope, as well as a reconfiguration of the ground floor car parking.

The application was referred and determined by the JRPP (now known as HCCRPP) on (24 April 2019), pursuant to clause 2 of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* as the development was for general development with a CIV in excess of \$30 million. The proposed modified development will result in an increase to the CIV value of the original development, now being \$58,648,270.

The proposed modification is made under Section 4.55(2) and is referred to the HCCRPP for determination as the proposed modification seeks a departure over 10% from prescribed development standards for floor space ratio, accordingly the application is referred to HCCRPP as the determining authority.

## 2. SITE CONTEXT

The subject site is legally described as Lot 1 DP 1197377, known as 10 Dangar Street Wickham. (See **Figure 1** – Aerial Map). The site is bounded by Charles Street to the west, Dangar Street to the north, and Hannell Street to the east. The southern boundary of the site adjoins the Newcastle City Interchange.

The site for which the proposed modification applies is irregular in shape, with a slight fall toward the west and has a total area of 2,904m<sup>2</sup>. The site is accessed via Charles and Dangar Street. The site contains an existing commercial building with no trees or significant vegetation. The site is covered by either built form or hardstand area.

The site is zoned B3 Commercial Core under the Newcastle Local Environmental Plan 2012 (See Figure 2 – Zoning Map).

The site is identified as being affected by the following risks and land constraints; contaminated land, flood prone land, and acid sulfate soils (Class 3). The site is located directly across from the Newcastle Interchange.

Photographs of the site are provided below.



**Figure 1:** Aerial photograph of the subject site.





**Figure 2:** The subject site facing north along Charles Street.



**Figure 3:** The subject site facing north east along Station Street.



**Figure 4:** The subject site facing south along Charles Street.



**Figure 5:** The subject site and the interchange building, facing west.



## Surrounding development

Development on surrounding sites is a mix of commercial, residential, retail, and office use. The land adjoining to the south is subject to an approved four staged concept development application for a mixed-use development comprising retail, commercial, public spaces, residential apartments, and associated car parking. This site was the location of the former 'Store' heritage building, now demolished to facilitate the Newcastle Bus Interchange. A 12 storey commercial office building, and five storey car parking station have also been constructed on the site. The final stage of the concept plan being a mixed use residential and commercial building, is yet to be submitted as a development application.

Additionally, there are a number of existing mixed use commercial residential developments within close proximity to the site.

The 'Bishops Gate' residential apartment building is a smaller scale development, located to the north of the site. Directly east of the Bishops Gate development and north of the subject site is the 'Stella' residential apartment building, currently under construction. The 15 storey development spans across Dangar, Bishopsgate, and Hannell Street, and will comprise of both residential units and ground floor commercial premises.

The 'West End Apartments' located at 3 - 13 Charles Street is a smaller scale residential development, split into two towers at podium level, fronting both Charles and Station Street.

Towards the west of the site and located along Station Street are the 'Eaton Apartments', a mixed-use development fronting both Union, Station, and Wickham Street. The site comprises of 114 residential units with a commercial ground floor area.

## 3. BACKGROUND

### DA2018/01197 & S4.55(1A) - DA2018/01197.01

Under the parent consent (DA2018/01197), the development was approved for '*demolition of existing structures and erection of a 14-storey mixed use development*'. The consent was approved by way of deferred commencement by the (then) Joint Regional Planning Panel on the 24 April 2019.

The approved development comprised the following works:

- Demolition of all structures on the site.
- Erection of 14 storey mixed use development including 97 residential units, ground floor retail spaces (1098m<sup>2</sup>), three levels of commercial units (4386m<sup>2</sup>), four levels of parking for 198 cars and associated site works.

The deferred commencement condition imposed on the consent required written approval/certification from Transport for NSW and Sydney Trains satisfying the matters contained in their concurrence letter.

On 26 November 2019 development application DA2018/01197.01 was approved under the Assessing Officers delegation as a Section 4.55(1A) modification, the amendment involved the extension of the deferred commencement period for an additional 12 months.

The deferred commencement requirements listed under Schedule 1 of the Deferred Commencement Consent were satisfied on the 22 September 2020 and a formal letter was issued by CN to the applicant.

#### 4. THE PROPOSAL

The proposed modifications subject of this Section 4.55 (2) application includes the following components:

- An additional basement level (basement 3) to facilitate additional car parking. This amendment allows for previously approved parking located within the podium levels 1-3 to relocate to the additional basement level. The removal of parking from the podium level enables the inclusion of additional commercial space on podium levels 1-3. The removal of parking and inclusion of additional commercial space has also resulted in changes to circulation areas, storage, and service and toilet facility locations.

The additional retail and commercial space increases the GFA across the ground floor to level 3 from 5707m<sup>2</sup> to 8256m<sup>2</sup>. Therefore, increasing the FSR 5.87:1, which is non-compliant with prescribed FSR of 5:1.

- Extend the basement levels envelope to allow for servicing space. The thickness of the shoring walls is also increased based on more detailed design being completed.
- Reconfigure the ground floor car parking area, ramp location, and provision of End of Trip (EOT) facilities.
- No changes are proposed to the overall parking provision of 198 spaces, however the bicycle and motorcycle spaces has increased to 19 motor bike spaces and 179 bicycle spaces. The proposal also provided 3 x light commercial utility spaces and 1 small, rigid vehicle bay.
- Increase the floor to ceiling heights on the retail and office levels. The specific changes are:
  - Level 1 has been increased from 3.3m to 3.4m
  - Level 2 has been increased from 3.3m to 3.4m
  - Level 3 has been increased from 3.3m to 4.05m

The changes in ceiling height are reflected in the overall building height.

- Minor amendments to the common circulation space of the residential apartments are also proposed and include the following:
  - Changes to the orientation of the residential lift core, this does not impact the approved design or layout of the residential apartments.
  - Additional detailing regarding servicing cupboards are now detailed.
- Additional solar panels are located on the roof top.
- The approved retail tenancy layout at the ground level is amended from two larger tenancies being (553m<sup>2</sup> and 552m<sup>2</sup>) to four smaller tenancies (200m<sup>2</sup>, 331m<sup>2</sup>, 359m<sup>2</sup> and 201m<sup>2</sup>).
- Update to the western, eastern, and southern podium facade to amend approved treatments and building materials and include the following:
  - Facade amendments to reflect additional commercial space on the podium levels 1-3, resulting in continuous glazing around the full perimeter of the office

levels, the accompanying metal horizontal shading has also been extended along the east and west facade.

- Changes to the fibre cement panels, and the grooved profile panels and metal screens have been removed from the project.
  - The previously approved UG grooved concrete spandrel panels are replaced with horizontal metal cladding interlocking shale grey panels.
  - The previously approved plans identified the screening to the podium level as precast concrete, this is now proposed to be revised to a fibres cement material.
  - In response to requirements from Sydney Trains and TfNSW, additional screening is proposed to the Level 13 southern elevation. The recommendations required that all southern facing balconies limit the opportunity for debris and waste onto the rails to the south. In satisfying this, the applicant is proposing to reduce the spatial dimension of the vertical louvers in those specific areas in order to limit the fall of debris between louvers.
  - Amendments to shading devices and screens.
  - In satisfying the original DA conditions, Level 1-4 southern western podium corner has been rounded in its design.
  - The ground floor awning is extended along the western facade as a response to the comments received from the Urban Design Consultative Group.
- There are minor changes to the ground level landscaping design as a result of the changing levels with the Newcastle Interchange Site.
  - Amendments to the Remedial Action Plan which encompasses the additional earthworks associated with the additional basement level.

## 5. PLANNING ASSESSMENT

### 5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

#### 5.1.1. Section 4.55(2) of the Environmental Planning and Assessment Act 1979 – Other modifications

The proposal, as amended, has been assessed under the provision of the EP&A Act 1979. The subject application seeks a Section 4.55 (2) modification to DA2018/01197. A consideration of Section 4.55 (2) is provided below:

Section 4.55 (2) states a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

#### Subsection (2)(a):

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

## Planners Comment

As regard to subclause 'a', CN is satisfied that the development to which the consent as modified relates is substantially the same development for which consent was originally granted and before that consent as originally granted was modified (if at all). Qualitatively, the modification application (despite having to excavate further to accommodate an additional level of basement), does not propose to alter the approved building footprint and does not result in a significant change to the built form. With regard to modified external building treatments including glazing, shading, awning, and paneling this does not adversely impact on the overall design of the proposal.

The extended height will not adversely impact on any adjoining properties. The additional shadows cast as a result of the additional height is minimal. It is further acknowledged that the proposal remains for the 'demolition of existing structure and erection of 14 storey mixed use development'. Whilst the proposal will accommodate additional commercial space, the built form and relationship the surrounding land is generally the same.

The approved development remains substantially the same as that previously approved in terms of form and function.

### Subsection (2)(b):

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent,*

## Planner Comment

The approved development was integrated development pursuant to Section 4.46 of the EP&A Act, as approval was required from WaterNSW under the *Water Management Act 2000*, with regard to aquifer interference (dewatering). The application was again referred to WaterNSW and a response was received on the 10 March 2021. WaterNSW responded that they no longer issue General Terms of Approval for dewatering as this approval falls under the *Water Act 1912* as the integrated development only applies to the *Water Management Act 2000* as per Section 4.46 of the EP&A Act. WaterNSW raised no objection to the modification application.

In addition, written advice was received from TfNSW and Sydney Trains, which were consulted on the subject modification application of which they raised no objection. Their comments are detailed in the referral section of this report. The proposed modification application is satisfactory having regard to subsection (b).

### Subsection (2)(c) and (d):

- (c) *it has notified the application in accordance with—*  
     (i) *the regulations, if the regulations so require, or*  
     (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

## Planners Comment

In regards subclause 'c' and 'd', the modification application was placed on public exhibition, for a period of 14 days from 8 October 2020 to 27 October 2020 in accordance with the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2000* (EP&A Regs) and the City of Newcastle Community Participation Plan. There were no submissions received during the notification period.

Subsection (3) - Subsections (1) and (1A) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

## Planners Comment

As regard to subclause (3) an assessment of the modification application against the matters referred in Section 4.15(1) of the EP&A Act is included in this report.

The statement of reasons provided by the (then) JRPP for the approval of the original application on 24 April 2019 are as follows:

*'The Panel was supportive of the mixed-use development of the site, which was suited to the site.*

*The design and amenity of the building was positive and had appropriate regard to the site's context and will be a significant improvement for the area. The proposal had appropriate regard to the design principles within SEPP 65 (Design Quality for Residential Apartment Development) and the associated Apartment Design Guide, and the proposal was supported by the Urban Design Consultative Group, while the proposal itself had been modified and improved over time following feedback from this group'.*

The proposed modification continues to adhere to the above reasons for approval in that the density, bulk, height, and scale remains relatively unchanged. The site continues to provide a mixed used development which will support both residential development and commercial activity within proximity to public transport infrastructure. Accordingly, the proposed modification is considered satisfactory in this regard.

An assessment of the modification against the matters for consideration under Section 4.15 of the EP&A Act is provided below.

### 5.1.2. Section 4.5 –Regional Planning Panels

Section 4.5 of the EP&A Act and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 requires the Hunter Central Coast Regional Planning Panel (HCCRPP) to determine applications for general development over \$30 million. Development Application DA2018/01197 was determined by the then Joint Regional Planning Panel as the development is categorised as general development with a CIV in excess of \$30 million. The proposed modification increases the applicable CIV, which is \$58,648,270.

The current proposal modification application is made under Section 4.55(2) and is being referred to the Hunter & Central Coast Regional Planning Panel (HCCRPP) for determination under Section 123BA(2) of the *Environmental Planning and Assessment Regulation 2000* and



the *Instructions on Functions Exercisable by Council*. The proposed modification seeks a departure over 10% from prescribed development standards for floor space ratio.

### **5.1.3. Section 4.46 – Integrated Development**

The original development application was referred as an integrated development pursuant to Section 4.46 of the EP&A Act, as approval was required from WaterNSW under the *Water Management Act 2000*, with regard to aquifer interference (dewatering). Subsequently general terms of approval were issued and included as a part of the consent.

The application was again referred to WaterNSW and a response was received on the 10 March 2021. WaterNSW responded that they no longer issue General Terms of Approval for dewatering as this approval is triggered under the *Water Act 1912* and integrated development only applies to the *Water Management Act 2000* as per Section 4.46 of the EP&A Act 1979.

The development is no longer considered integrated development, it is also noted that modification applications are not integrated development, notwithstanding further details regarding the WaterNSW requirements is discussed under Section **5.1.3.7** of this report.

### **5.1.4. Section 4.15(1) Evaluation**

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

#### **5.1.4.1 The provisions of any environmental planning instrument**

##### *State Environmental Planning Policy (State and Regional Development) 2011*

This policy sets out the functions of regional panels in determining applications for regional development. Clause 20 of the SEPP requires the Hunter Central Coast Regional Planning Panel (HCCRPP) to be the determining authority for development included in Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011. This includes applications for development over \$30 million in value. Development Application DA2018/01197 was determined by the then Joint Regional Planning Panel as the development is categorised as general development with a CIV in excess of \$30 million. The proposed modification increases the applicable CIV, which is \$58,648,270.

The current proposal modification application is made under Section 4.55(2) and is being referred to the Hunter & Central Coast Regional Planning Panel (HCCRPP) for determination under Section 123BA(2) of the *Environmental Planning and Assessment Regulation 2000* and the *Instructions on Functions Exercisable by Council*. As the proposed modification seeks a departure over 10% from prescribed development standards for floor space ratio.

##### *State Environmental Planning Policy (Infrastructure) 2007*

*State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency. The ISEPP simplifies the process for providing infrastructure in areas such as education, hospitals, roads, railways, emergency services, water supply and electricity delivery

Schedule 3, Clause 85, 86, 101, and 104 of ISEPP, development adjacent to rail corridors, excavation, in, above, below or adjacent to rail corridors, development with frontage to a classified road, and traffic generating development. The referral required the responses from three agencies within TfNSW:

- TfNSW Customer Strategy and Technology (CST) – Newcastle Light Rail corridor

- TfNSW Hunter Region and Outer Metropolitan (HROM) – Classified Road impacts - responsible authority
- Sydney Trains delegated authority for the Newcastle Interchange

The application was referred to TfNSW as it is located in close proximity to a classified road being Hannell Street (MR316), light rail and, a rail corridor, as detailed below:

- *Clause 85 – Development adjacent to rail corridors* – Clause 85 applies to development on land that is in or adjacent to a rail corridor, if the development – (a) is likely to have an adverse effect on rail safety, or (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or (c) involves the use of a crane in air space above any rail corridor, or (d) is located within 5 metres of an exposed overhead electricity powerline that is used for the purpose of railways or rail infrastructure facilities.

The proposed development is adjacent to a rail corridor being both the heavy rail/light rail corridor. TfNSW has determined the proposed modification will not create any new material impacts on the Newcastle Light Rail corridor compared to the approved DA2018/01117. The Conditions of Consent relating to the protection of the Newcastle Light Rail as presented in the Notice of Determination for DA2018/01197, City of Newcastle dated 30 April 2019 remain relevant to the subject modified DA.

- *Clause 86 - Excavation in, above, below, or adjacent to rail corridors* - Clause 86 provides that new development should not compromise the safety, integrity, effective and ongoing operation and function of the rail line and rail corridor. Clause 86(2) specifies that prior to determining a development application for development to which this clause applies, the consent authority must: (a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and, (b) take into consideration, (i) any response to the notice that is received within 21 days after the notice is given, and (ii) any guidelines issued by the Secretary for the purposes of this clause and published in the Gazette.

The proposed development is located proximity of the heavy rail/light rail corridor and includes excavation deeper than 2m, triggering a referral to the rail authority in accordance with Clause 85 and 86 (concurrence requirement) of the ISEPP.

The ISEPP defines Transport for (TfNSW) as being the rail authority, however, Sydney Trains has delegation from TfNSW to act as the rail authority for the heavy rail corridor. TfNSW retains authority for the light rail corridor.

Sydney Trains provided a response on the 5 February 2021 stating that they had taken into consideration the matters detailed under Clause 86(4) of the ISEPP and determined to grant its concurrence to the modification development subject to Council imposing the additional operational conditions listed in Attachment A.

TfNSW (CST) provided a response on the 2 March 2021 stating that the proposed modification (DA2018/01197.02) will not create any new material impacts on the Newcastle Light Rail corridor compared to the approved DA2018/01117. Furthermore, the conditions of consent relating to the protection of the Newcastle Light Rail as presented in the Notice of Determination for the original DA remain relevant to the subject modification.

- *Clause 101 – Development with frontage to classified road* - Clause 101 provides that new development should not compromise the effective and ongoing operation and function of classified roads. Clause 101(2) specifies that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that: (a) where practicable and safe, vehicular access is provided by a road other than the classified road, (b) the safety, efficiency and ongoing operation of the

classified road will not be adversely affected by the development, and (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The subject site has frontage to the Hannell Street being a classified State Road. The proposed modified development seeks to increase the commercial floor space and therefore will attribute to an increased traffic demand on the site.

TfNSW (HROM) provided a response on 3 February 2021 stating they have reviewed the referred information, with no objections to the development on the basis that certain conditions are included in the modified consent. The TfNSW conditions include but not limited to; excavation details, implementation of an instrument and monitoring plan, a dilapidation survey of structures, submission of construction drawings, construction conformance checks and copies of work-as-executed plans.

In addition, TfNSW (HROM) stated that all matters relating to internal arrangements on site are matters for CN to determine and CN should ensure that the modified consent retains Condition 23 of the Notice of Determination for DA2018/01197 which requires provision of a minimum of 3.5 wide footpath along the Hannell Street site frontage.

- *Clause 102 – Impact of road noise or vibration on non-road development* - Clause 102 applies to development that is on land in or adjacent to the road corridor for a freeway, tollway or transit way or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on traffic volume data published on the website TfNSW website). Residential accommodation is development for the purpose of clause 102. There are no proposed changes to the residential portion of the development, therefore no further comments are to be provided.
- *Clause 104 and Schedule 3 – Traffic Generating Development* - Clause 104 and sch. 3 of the ISEPP, relates to traffic generating development and requires certain applications to be referred to Transport for NSW. In accordance with schedule 3 of the ISEPP, the trigger for the proposed modification to be considered traffic generating development is to either comprise 10,000m<sup>2</sup> in GFA or comprise 2500m<sup>2</sup> with direct access within 90m of state classified road.

The development does not contain direct access or access within 90m of Hannell Street, therefore is not considered traffic generating development.

The proposed modification is acceptable having regard to the relevant provisions of the ISEPP as detailed above.

#### State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* State Environmental Planning Policy (SEPP) (BASIX) 2004 applies to buildings that are defined as 'BASIX affected development', being "development that involves the erection (but not the relocation) of a BASIX affected building," (i.e.: contains one or more dwelling).

Accordingly, the provisions of the SEPP apply to the current development proposal. In this regard the applicant submitted a valid BASIX Certificate, which list the commitments to achieve appropriate building sustainability. A condition is included on the development consent requiring such commitments to be fulfilled.

State Environmental Planning Policy No.55 (Remediation of Land) (SEPP No.55)

This policy requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Clause 7(1) (b) and (c) of SEPP No.55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed. In relation to contamination issues the following comments are made:

The original development application identified that the site was contaminated above the adopted land use criteria. Given the contamination, the provisions of SEPP 55 must be satisfied, with the site requiring remediation works to be undertaken to render the land suitable for the proposed use.

To satisfy SEPP 55 the applicant submitted to Council for assessment and approval a Remediation Action Plan (RAP) prepared by Douglas Partners dated December 2018. The RAP proposed to address the onsite contamination by excavating and disposing the contaminated material to a facility that could lawfully receive the waste. Following this, validation would take place to ensure site suitability.

The current modification seeks consent to construct a third basement level which required an amendment to the previously approved RAP. Douglas Partners prepared and submitted to Council a Remediation Action Plan dated September 2020, the RAP proposed to remediate the site by undertaking a strategy known as *landfarming*. It is noted that the proposed landfarming practice can result in strong offensive odours during the remediation process.

In response to CN's concerns, the applicant amended the RAP and submitted a revised document dated November 2020. The RAP stated that given the excavations required for construction of the proposed development (i.e. third level basement), off-site disposal of contaminated material was considered to be the most appropriate remediation option for the site. As such, the remediation strategy nominated for this RAP is off-site disposal of impacted soils (which is consistent with the original application) and will be addressed below in the recommended conditions of consent.

The proposal satisfies the requirements and SEPP55, in particular clause 7 'contamination and remediation to be considered in determining development application', which requires the consent authority is satisfied that the development site will be suitable for the proposed development following remediation works.

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

SEPP 65 aims to improve the design quality of residential flat buildings across NSW by providing an assessment framework, the Apartment Design Guidelines (ADG's), for assessing 'good design'. To support these aims the SEPP introduces nine design quality principles. These principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions.

No changes are proposed to the approved residential component including the quantity, size, or design of the apartments. It is noted that the floor to ceiling height of level 1-3 will slightly change as a result of the proposed removal of parking and inclusion of additional commercial space. However, the proposal does not alter the overall approved residences of the development and is considered satisfactory. Therefore, an assessment against the provisions of the ADG is not required as the residential apartment component of the development will remain unchanged.

Clause 28 (2) of the SEPP requires the consent authority to take into consideration the advice of a Design Review Panel (constituted under Part 3 of the Policy), the design quality of the development when evaluated in accordance with the design quality principles and the Apartment Design Guide (ADG).

As the proposal includes amendments to the ground floor, basement levels, and to the podium facade an assessment of the modified development under the design principles is provided below.

Design Quality Principles	UDCG Comments	Officers Comments
Principle 1: Context and Neighbourhood Character	The site is in a rapidly evolving high-density B3 Commercial Core Zone, immediately adjacent to the rail interchange.	Noted.
Principle 2: Built Form and Scale	<p>The proposed external building form would be basically unchanged except that the height of the tower component is increased from 46.897m to 47.8m. The approved building already exceeds the LEP control of 45m, and this would add a further 1 metre. The resulting change to the visual impact would be negligible and acceptable.</p> <p>It would be undesirable for access to all office spaces to be totally reliant on elevators, when easy access by stairs at least to the first floor would be highly desirable. Interconnection of ground-floor retail areas to the first-floor spaces immediately above can also be advantageous, since some tenants of these areas could well desire to have direct connection to their office space above. Open double-height spaces with stairs between two or three levels are increasingly common in commercial developments.</p>	<p>Height: The approved height is 46.7m to 47.64m.</p> <p>Stairwell: The applicant has suggested that incorporating the double-height stairwell would reduce the GFA of the office floor plates. Additionally, as the applicant is yet to identify tenants, the preference would be to ensure privacy and security for each floor level. If a single tenant does occupy multiple floors, then a discussion around floor links through voids and stairs can be accommodated.</p>
Principle 3: Density	<p>The additional office area where car-parking was previously approved would result in the FSR being increased from an LEP-compliant 5:1 to 5.8:1, and a GFA of 11,366m<sup>2</sup>, which is 17.6% in excess of the statutory control.</p> <p>This is a major non-compliance, and would have been unlikely to be approved, had it been proposed in the original application. However in the circumstances of the subject modification there is some justification for the increase:</p> <ul style="list-style-type: none"> <li>The location immediately adjacent to rail and light-rail services is ideal and would minimise reliance on car travel for staff and visitors</li> <li>The podium and street would be more activated</li> </ul>	<p>The original development was approved with a GFA of 14,520m<sup>2</sup> being and FSR of 5:1.</p> <p>The S4.55 (2) seeks to an additional increase of 2,549m<sup>2</sup> to 17,069m<sup>2</sup>, being an FSR of 5.87:1. The variation is confirmed as being 17.5%.</p>



	<ul style="list-style-type: none"> <li>• There would be minimal change to the bulk of the podium and the building overall</li> <li>• There is opportunity for enhancement of the appearance of the podium with additional glazing to windows, and other devices</li> <li>• Potential for positive environmental inclusions, -see 'Sustainability' below.</li> </ul>	
Principle 4: Sustainability	<p>Initiatives beyond statutory requirements would significantly assist the case for the excess FSR, including:</p> <ul style="list-style-type: none"> <li>• Collection and recycling of rainwater for irrigation of landscaping: it is noted that a tank is indicated on the ground floor plan, and it is assumed that this is already intended</li> <li>• Improvement to landscape on podium deck</li> <li>• Solar energy collection</li> <li>• Further enhancement of thermal performance of podium facades by way of adjustable screens, greening etc.</li> </ul>	<p>The applicant has confirmed that an irrigation system is proposed for all of the planting areas within the development. This system is proposed to be connected to the rainwater reuse tank. Additionally, solar panels are proposed on the roof area.</p>
Principle 5: Landscape	<p>Details of landscape were not provided, but there is opportunity for far more substantial initiatives on the podium for environmental and aesthetic reasons.</p> <p>Larger species including trees would be very desirable, as well as more attractive shaded spaces, with prominent 'greening' along the street-front edges. It should be noted that provision of adequate depths and deep-soil volumes to nurture larger species are essential.</p> <p>Soil volumes need to achieve the minimum specified in the ADG for the relevant plantings. Soil depths indicated on sections are inadequate to support trees of the size indicated, and greater depths are required.</p> <p>The adjacent public footpaths should include provision of trees, new paving and potentially other measures such as seating in the setback spaces, all in accordance with Council policies.</p> <p>These would be particularly welcome on the west side where people are likely to wait for pick-up and taxis.</p>	<p>Landscaping:</p> <p>The approved landscaping plan incorporates extensive gardens along the edges of the proposed tower. The gardens offer a garden depth of 1.2m as required for tree planting. 600mm planter beds have been proposed for the gardens containing shrubs and grasses. The range in scale of vegetation, soften and articulate the space.</p> <p>The communal podium terrace provides a usable space that affords flexibility for the residents including, a lawn, seating, and BBQ area.</p> <p>Furthermore, the S4.55 (2) does not seek to change the landscape design as approved on the podium level.</p> <p>The proposal will continue to provide residents with a useable green space that affords amenity and practicality.</p> <p>With regard to additional planting within the public domain area, a S138 is currently under review and</p>

		additional space may be required to facilitate Council servicing waste.
Principle 6: Amenity	<p>The street awnings as proposed, at least those along Hannell Street, are unduly narrow and should be widened, possibly with 'cut-outs' adjacent to street trees.</p> <p>There is opportunity for creating excellent amenity for residents with sensitive development of the podium landscaping.</p>	<p>The awning running along Hannell Street is 2m in width, this is proposed to be maintained.</p> <p>The Charles Street boundary awning has been extended in response to the UDCG comments.</p> <p>The applicants have indicated that the awning running along the Interchange boundary is constrained by the width of the site, if an awning was incorporated into the design it would extend beyond the boundary.</p> <p>Landscaping:</p> <p>The applicants have not proposed any amendments to the approved landscaping plan on the podium level. It is considered that the landscaping still achieves an appropriate level of landscaping suitable for the future residential use. Landscaping amendments are proposed adjacent to the Newcastle Interchange on the ground level to accommodate a change in levels on the site.</p>
Principle 7: Safety	Satisfactory	Noted.
Principle 8: Housing Diversity and Social Interaction	Not applicable.	Noted.
Principle 9: Aesthetics	<p>Further refinement of the podium facades would be desirable. Their basic form is supported, but the appearance of the long horizontal windows would benefit from some additional detailed interest, by way of for example solar protection devices which responded to the different orientations of the facades.</p> <p>Extensive tall landscaping of the podium with perhaps small overhanging 'greenery' would also add to its attraction and interest if clearly visible from nearby streets.</p>	<p>The additional building works will be undertaken within the basement level. Whilst there have been design amendments to the ground floor and an increase in the external glazing and a reduction in the spatial dimension of the vertical louvers.</p> <p>Continuous glazing is proposed to the full perimeter of office levels and accompanying metal horizontal shading has been extended along the entire east facade. The changes to the external treatments are considered to respond appropriately to the surrounding streetscape.</p>

		<p>The applicants have not proposed any amendments to the approved landscaping plan on the podium level. It is considered that the landscaping still achieves an appropriate level of landscaping suitable for the future residential use.</p> <p>Internal design changes relating to the stairway connection between the office have been considered and can be adopted if the tenancy is the same across both levels of office space. However, this has not been shown on the provided plans as the applicant has sought to maintain the current stairway arrangement.</p> <p>The proposal also includes solar panels on the roof and rainwater tank reuse for irrigation purposes.</p> <p>The development also proposes to extend the awning to wrap around the Charles Street boundary.</p>
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### Planners comments

In summary, the UDCG identified that some further detailed refinement of the proposal is needed to justify the significant excess in FSR. The UDCG proposed that these would be relatively minor initiatives as recommended above under Density, Sustainability, Landscape and Amenity. Subject to these minor changes the UDCG recommended that the modification application could be supported.

In response to the comments from the UDCG the applicant amended the submitted plans by providing an extended awning along Hannell Street. The applicant has not proposed to amend the approved landscaping plan on the podium level or incorporate the suggested double height stairwell within the commercial tenancies.

In summary, the proposed development, as modified provides a positive contribution to its locality in terms of its design quality, the internal and external amenity it provides, and is a suitable mix of commercial, retail, and residential uses.

### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

*The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Clause 7 of the Vegetation SEPP provides that a person must not clear vegetation in any non-rural area of the State without the authority confirmed by a permit granted by the council. No trees or vegetation were required to be removed as a part of this development application. The provisions of the Vegetation SEPP are not applicable to the proposed development.

State Environmental Planning Policy (Coastal Management) 2018

*State Environmental Planning Policy (Coastal Management) 2018* (CM SEPP) aims to protect and manage the New South Wales coast and foreshores and requires the consideration of specific criteria based on the type of coastal area affected.

- *Clause 5 Land to which the policy applies* - The CM SEPP applies to land the whole or any part of which is within the 'coastal zone'. The site is mapped as being within the 'coastal use area'.
- *Clause 14 - Development on land within the coastal use area* - Clause 14 provides that development consent must not be granted to development on land that is within the coastal use area unless the consent authority is satisfied that the proposed development will not cause an adverse impact on: Existing access to foreshore, beach, headland or rock platform for members of the public, including persons with a disability; overshadowing, wind funneling and the loss of views from public foreshores; the visual amenity and scenic qualities of the coast; Aboriginal cultural heritage, practices and places; and cultural and built environment heritage.

The site is located within a well-established urban setting, with development existing on the site for many years, there are no likely impacts to this environment, particularly in relation to the biophysical environment and coastal processes and maintaining public access to foreshore.

- *Clause 16 - Development in coastal zone generally - coastal management programs to be considered*: Clause 16 prescribes that development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land. There are no applicable coastal management programs which apply to the subject site.

The proposed modified development is acceptable having regard to the relevant provisions of the CMSEPP.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

The Newcastle LEP 2012 provides the mechanism and framework for the management and orderly and economic development and conservation of land in the Newcastle Local Government Area.

The relevant matters to be considered under the NLEP 2012 for the proposed development as modified are outlined below.

*Clause 2.3 Land Use Table - Zoning*

The site is zoned B3 Commercial Core under the NLEP. The proposed uses include retail premises, commercial premises and shop top housing, which are permitted with consent in the B3 Commercial Core zone. The proposal continues to meet the objectives of the B3 Commercial Core zone as the development:

- Provides a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- Encourages appropriate employment opportunities in accessible locations.
- Maximises public transport patronage and encourage walking and cycling.
- Provides for commercial floor space within a mixed-use development.

- Strengthens the role of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter region.
- Provides for the retention and creation of view corridors.

Additionally, the proposed development will continue to satisfy the definition of shop top housing.

#### *Clause 4.3 Height of Buildings*

In assessing the original development application consideration was given to a variation to Clause 4.3 'Height of Buildings'. The original development was approved with a building height of 46.7m, exceeding the prescribed height limit by 1.7m or 3.7%.

The modification application proposes further increases to the proposed maximum building height, being RL 48.50 to RL 49.450 to the top of the vertical service louvre, this will result in a maximum height of 47.65 metres from the existing ground level. The total amended height represents a 5.9% variation from the maximum height permitted under the NLEP 2012, and an increase of 2.65m above the prescribed height limit.

This change in height from the original approval is limited to (950mm). Elsewhere the height of the building will be consistent with the approved built form. The additional height stems from modifications sought to the floor to ceiling heights of the levels 1-3 office space.

Whilst there is no requirement to submit a request to vary a development standard for modifications to development consent, the objectives of development standard and controls (Height 45m) remain relevant in the assessment of the proposed modification.

Having regard to the objectives of clause 4.3 and the relevant zone objectives contained in NLEP2021, the scale of the development will continue to contribute towards the desired character in presenting a mixed-use development that provides both high density residential living and further opportunities for commercial and retail development in close proximity to public transport.

As demonstrated within the shadow diagrams, the additional height will not result in unreasonable shadowing to adjoining development or to the public domain, allowing for continued amenity and solar access to these areas. The building will continue to make a positive contribution and will not result in excessive height or scale.

For these reasons, the proposal as modified remains consistent with the objectives of Clause 4.3.

#### *Clause 4.4 Floor Space Ratio*

The maximum floor space ratio for the site is 6:1. However, under clause 7.10 the site is identified as being within 'Area A' and as such the FSR is reduced to 5:1, unless the development is limited to an outright commercial use. Under the original application, the proposal was considered and supported with an approved FSR of 5:1, which was compliant with the 5:1 FSR.

As detailed previously, there is no requirement to submit a request to vary a development standard for section 4.55 modifications to development consents. However, the objectives of development standard and controls remain relevant in the assessment of the proposed modification.

In this instance the total proposed Gross Floor Area is 17,069m<sup>2</sup> and the site is 2904m<sup>2</sup> in area. The residential GFA remains unchanged at 8,813m<sup>2</sup>, however the GFA for the ground floor and basement levels has changed from 5707m<sup>2</sup> to 8256m<sup>2</sup> resulting in an increase of



GFA from 14,520m<sup>2</sup> to 17,069m<sup>2</sup>. This represents a variation of 17.55% from the originally approved FSR and a departure of 2549m<sup>2</sup>, the amendments translate to an FSR of 5.87:1 being a 17.55% variation to the FSR (compliant FSR being 14,520m<sup>2</sup>).

Having regard to the objectives of the clause, the building design will continue to make a positive contribution to the streetscape and will not result in excessive density, bulk, and scale. Significantly, the modified design retains appropriate setbacks providing appropriate separation to existing and future development. The massing, podium level, and external decorative elements remain aesthetically distinctive, the style incorporates a range of building materials that provide adequate articulation. The podium 'ribbon' built form is a significant element in the design and remains unchanged.

On a broader context, the design amendments and additional GFA do not result in a substantial increase in the development footprint. The retention of the approved building form, built fabric, and the addition of occurring a concealed basement level, accommodate the additional GFA cohesively. Such an adaption of an additional basement level and increase in commercial space is considered satisfactory given the existing building footprint will remain unaffected.

For the above reasons, the proposal remains consistent with the objectives of Clause 4.4 and the additional GFA is supported.

#### *Clause 4.6 Exception to Development Standards*

There is no requirement to submit a request to vary a development standard for a modification application. Clause 4.6 does not apply to the subject application.

#### *Clause 5.10 Heritage Conservation*

The subject site is not identified as a heritage item or located within a heritage conservation area. However, as specified under 5.10(5)(c) the consent authority may, before granting consent to any development require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned. In this regard, the surrounding heritage items include:

- 1681 – 15 Charles Street – Residence (local);
- 1683 & 1684 – Wickham Railway Station and signal Box (local);
- 1690 - 80 Honeysuckle Drive – Former School of Arts (local); and
- 1504 - 854 Hunter Street – Former Newcastle Cooperative Store (local).

Wickham Railway Station and the former 'Store' building have been demolished to facilitate the Newcastle Interchange. The residence located at 15 Charles Street is surrounded by an existing high-density residential development and an industrial warehouse, in this context the residence offers a reflection of residential design of the period. The Former School of Arts building is located some distance away, positioned between Honeysuckle Drive and Station Street. By virtue of location and existing surrounds, it is unlikely that the proposed modifications to the approved development will have a significant impact on the remaining listed heritage items and therefore a heritage management document is not required.

#### *Clause 6.1 Acid Sulfate Soils*

The subject site is identified as containing Class 3 Acid Sulphate Soils (ASS). The proposed modification involves works more than 1 metre below natural ground surface and includes, an additional basement level. According to cl.6.1(2) works more than 1 metre below the natural ground surface, such as the proposed basement parking levels, require development consent.

Clause 6.1(3) specifies that development consent must not be granted for the carrying out of works under the clause unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority. The applicant has provided an Acid Sulfate Soil Management Plan (prepared by Douglas Partners and dated 19 January 2021) the updated plan will be included and conditioned in the revised consent.

### *Clause 6.2 Earthworks*

Clause 6.2 aims to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. The clause specifies that consent is required for earthworks unless the works are exempt development, or ancillary to other development for which development consent has been granted.

It is noted that the site will require earthworks, the level of earthworks proposed to facilitate the development is considered acceptable having regard to this clause. The design minimises the extent of the proposed earthworks having regard to the existing topography. The proposed development involves extensive bulk earthworks, inclusive of the excavation to works required to facilitate the additional basement car parking. It is estimated that up to 28,600m<sup>3</sup> of material will be excavated from the site.

<b>Matter</b>	<b>Comment</b>
Disruption/detrimental effect on drainage patterns and soil stability.	Detailed stormwater management plans have been provided with the development application. An Acid Sulfate Soils Management Plan has also been provided. Subject to conditions of consent the proposed earthworks will not adversely impact drainage patterns and soil stability.
Effect on future use or redevelopment of the land.	The proposed earthworks do not adversely impact the future use or redevelopment of the land and will facilitate the modified development proposed under the subject application.
The quality of fill and/or soil to be excavated.	The site is identified as contaminated land. A modified remediation action plan has been submitted with the application. Subject to conditions of consent the soil to be excavated from the site can be appropriately managed. Conditions of consent in respect to use of fill material are also recommended.
The effect of the development on the existing and likely amenity of adjoining properties.	Detailed assessment of the effect of the development on existing and likely amenity of adjoining properties has been provided elsewhere in this report. The proposed development does not result in unreasonable impacts to the amenity of adjoining properties.
The source and any fill material and destination of any excavated material	The source of fill material and destination of excavated material will be addressed by conditions of consent.
The likelihood of disturbing relics.	The subject site is not identified as an archaeological site. However, as detailed conditions of consent will be imposed in respect to any unexpected finds discovered during construction.
Impact to any watercourse, drinking water catchment or environmentally sensitive area.	The development will not adversely impact any watercourse, drinking water catchment or environmentally sensitive area. WaterNSW have reviewed the amended proposal and have provided amended conditions regarding dewatering.
Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	Conditions of consent have been recommended to avoid, minimise or mitigate the impacts of the development.

Consideration has been given to the matters prescribed under cl.6.3(3) and the proposed earthworks are acceptable.

### Part 7 Newcastle City Centre

The site is located within the Newcastle City Centre. There are a number of requirements and objectives for development within the City Centre, which includes promoting the economic revitalisation of the City Centre, facilitating design excellence and protecting the natural and cultural heritage of Newcastle. The proposed development will meet the objectives of Part 7 of the LEP as it allows for the redevelopment of a site for employment and residential opportunities in the Newcastle City Centre. The proposal creates a mixed-use site, with activity during the day and throughout the evening, ensuring the Newcastle City Centre is safe, attractive, inclusive and efficient for its local population and visitors alike. The modified development will continue to ensure that economic revitalisation of the Newcastle City Centre continues.

#### *Clause 7.3 Minimum Building Street Frontage*

The site is to have a minimum street frontage of 20m under clause 7.3. The proposed development is consistent with this standard, having a frontage of 55m to Hannell Street, no changes are proposed under this modification to the street frontage.

#### *Clause 7.4 Building Separation*

This clause requires that a building must be erected so that the distance “to any other building is not less than 24 metres at 45 metres or higher above ground”.

The proposed increase in height has resulted in a minor noncompliance with building separation from the 38 Hannell Street Development (Stella Apartments). The non-compliance is proposed at the roof line of the building, encroaching 1.4 metres into the 24 metre setback requirements as proposed (or a 9.4% variation).

It is noted that a Section 4.55 (2) does not require a Clause 4.6 to be submitted as a part of the application. Notwithstanding, the proposed variation has been assessed and considered against the objectives cl.7.4 and the B3 Commercial Core zone and is acceptable.

#### *Clause 7.5 Design Excellence*

The proposal does not generate a requirement to undertake an architectural design competition as the height of the proposed building is not greater than 48m and the site is not identified as a key site. As outlined within the original SEPP 65 & ADG assessment and as expressed within the subject report, the modified proposal has been determined to have design excellence by the Newcastle Urban Design Group (UDCG).

The modified plans were referred to the UDCG on one occasion as part of the assessment of the application. The UDCG provided initial feedback to ensure the overall design achieved design excellence. The development as modified meets the design excellence criteria of NLEP 2012 and is of a high standard of architectural quality.

#### *Clause 7.6 Active Street Frontages in Zone B3 Commercial Core*

This clause states that consent cannot be granted for a development in a B3 Commercial Zone unless the building will have an active street frontage, where the ground floor facing the street is to be used for business or retail premises. The proposal has addressed the clause with the inclusion of commercial and retail spaces at ground level along Hannell Street and Dangar Street. The modified development does not propose to amend the use of the site. Conditions

of consent are recommended to ensure that design excellence is maintained during construction.

#### *Clause 7.9 Height of Buildings*

The subject site is not identified as being within 'Area A' or 'Area B' on the Height of Buildings Map. Accordingly, the provisions of this clause do not apply to the proposal.

The maximum building height of the proposal is addressed under Clauses 4.3 of NLEP 2012 in this report.

#### *Clause 7.10 Floor Space Ratio for certain development in Area A.*

The subject site is located within 'Area A' as shown on the Floor Space Ratio Map. This clause indicates that the maximum floor space ratio for a building other than commercial buildings on land with a site area of 1,500m<sup>2</sup> or more is restricted to a maximum of 5:1. The proposal does not comply with this provision as discussed under Clause 4.4 Floor Space Ratio. Under the original application, the proposal was considered and supported with an approved FSR of 5:1, which was compliant with the 5:1 FSR. As discussed, the proposed additional basement level results in a variation of 17.5% to the FSR of 5:1.

The application is a 4.55(2) modification and is not accompanied by a formal cl4.6 exemptions to development standards.

#### *Clause 7.10A Floor space ratio for certain other development*

The proposed development has a site area of greater than 1,500m<sup>2</sup>. Accordingly, the provisions of this clause do not apply to the proposal.

#### **5.1.4.2 Any draft environmental planning instrument that is or has been placed on public exhibition**

- The Draft Design and Places *State Environmental Planning Policy (SEPP)*
- The Draft Three Ports *State Environmental Planning Policy*
- The Draft Koala *State Environmental Planning Policy 2021*

The above exhibited draft environmental planning instruments are not relevant to the subject modification application.

#### **5.1.4.3 Any development control plan (and section 7.11 Development Contributions Plan)**

The main planning requirements of relevance in the Newcastle Development Control Plan 2012 (DCP) are discussed in detail below. An assessment has been undertaken of those matters relevant to the subject site and proposed land use having regard to S4.55(3) of the EP&A Act.

### Section 3.03 - Residential Development

The objective of this section of the DCP is to improve the quality of residential development. This can be achieved through a design that has a positive impact on the streetscape through its built form, maximising the amenity and safety on the site and creating a vibrant place for people to live in a compact and sustainable urban form.

The proposed modification does not include any amendments to the residential section of the approved development.

### Section 3.10 - Commercial Uses

The DCP encourages commercial development that attracts pedestrian traffic and activates street frontages. The inclusion of retail uses on the ground level of the development will provide an active street frontage to Hannell Street and Dangar Street.

### Section 4.10 - Flood Management

A flood certificate FL2018/00245 has been attained from CN. The flood certificate data is the most current and has been used to set the building floor levels and car parking basement access to the recommended flood planning level FPL.

The following data is the most current and has been used to set the building floor levels and car parking basement access to the recommended flood planning level FPL.

<b>Flood Description / Event</b>	<b>Ocean Flooding (mAHD)</b>	<b>Flash (Local) Flooding (mAHD)</b>
1% AEP Event	2.20	2.18
PMF Event	3.40	3.01
Flood Risk to Life	L1	L4
Flood Risk to Property	P3	P2
Flood Planning level (FPL)		2.68

The risk to life for flash flooding is noted as L4 and therefore a flood refuge is required to be provided at 3.01m AHD, this is noted on the plans and will be conditioned as a part of the consent.

### Flood Planning

The flood planning levels for the proposed development is based on the highest flood level, being flash flooding. The recommended flood planning level (FPL) is therefore 2.68m AHD.

The ground floor parking levels, basement carpark entry, service areas and retail units have been designed at the FPL of 2.68m AHD. The retail along Hannell Street is set above the FPL at 2.80m AHD.

Access points to the basement from within the building and outside the building such as fire stairs have been designed to the recommended flood planning levels. Any other openings on the facade which may open into the basement will need to be protected to PMF levels.

The site has been identified as a flood storage area during the PMF event, a small section at the south western corner (Charles Street corner at the entry of the train station) is noted to be a flood storage area at 1% AEP.

The modified development has been set back along all the frontages which accommodates for the additional flood storage area, compared to the existing building which had zero setback along the Charles St frontage. The increased setback along the road frontages will provide for additional storage capacity within the road reserve and increased setback area, when compared to the existing development current on the subject site. If flood levels exceed the



FPL, then additional storage area within the basement is activated, however the probability of this event occurring is low.

The modified development has been designed to CN DCP requirements. The ground level retail and access to the basement have been set at FPL and is consistent with the originally approved DA.

#### Section 4.04 - Safety and Security

The proposed development provides for passive surveillance of the street and communal areas from balconies, living areas and ground floor commercial space. The internal driveway design should ensure low speed traffic movements to facilitate pedestrian safety. Direct, secure access is available between the front entry, car parking areas, lifts, and stairs to the upper level of the buildings.

#### Section 4.05 - Social Impact

The residential component remains unchanged, therefore continuing to support a diversity in housing options. The proposed amendments will result in an increase in the commercial and retail floorplate, providing additional opportunities for employment within close proximity to housing and public transport.

#### Section 5.01 - Soil Management

A Sediment and Erosion Management Plan prepared by Acor Consultants (cc) Pty Ltd dated 11 December 2020 has been submitted with the application to minimise sediments being removed from the site during the construction period. A condition has been placed on the consent to ensure such measures are in place for the entire construction period.

#### Section 5.02 - Land Contamination

As previously discussed under SEPP 55 Remediation of Land discussion, the site is identified as contaminated. The applicant has submitted a modified Site Investigation Report and Remediation Action Plan. The RAP has stated that given the excavations required for construction of the proposed development (i.e. third level basement), off-site disposal of contaminated material was considered to be the most appropriate remediation option for the site. The proposed development is satisfactory having regard to SEPP 55 and Section 5.01 DCP.

#### Section 5.04 - Aboriginal Heritage

A search of the Aboriginal Heritage Information Management System (AHIMS) – NSW Office of Environment and Heritage, was carried out and no Aboriginal sites or places were identified in proximity to the site. However, it was identified during the archaeological excavation for the adjacent Newcastle Transport Interchange that the site demonstrated high densities of culturally significant artefacts at a substantial depth. The 'Store' development (6 Stewart Avenue) was identified as an area of potential archaeological deposit, as an extension of the deposit that was identified on the adjacent Newcastle Bus Interchange site. Given the immediate proximity of the subject site to the Newcastle Transport Interchange and to the 'Store' site, it is considered that the proposed development is likely to impact Aboriginal archaeological deposits.

A condition of consent was imposed on the original consent to require the preparation of an Aboriginal Archaeological report prior to commencement of works and to require implementation of the recommendations of that report, including the potential need to obtain an Aboriginal Heritage Impact Permit under the National Parks and Wildlife Act 1974 prior to

any impact occurring. This condition remains unchanged under the subject modification application.

#### Section 5.05 and 5.07 Heritage Items and Heritage Conservation Areas

The site is not heritage listed for its cultural heritage significance and it is not an identified archaeological site. However, it is acknowledged that the 'Store' development was identified as an area of potential archaeological deposits, given the closely positioned buildings, an Aboriginal Archaeological report is required.

The significance and contribution of the adjacent heritage building 'Residence 15 Charles Street' is closely related to its aesthetics, the subject is an example of dwellings built during the mid-1800's. The building is not attributed to providing significant streetscape of character. The subject development as modified is unlikely to impact on the aesthetics, amenity or historic significance of the adjacent residence.

#### Section 6.01 - Newcastle City Centre

The applicant has noted that the original application was lodged during October of 2018, the proposal was therefore designed around the Newcastle City Centre Controls. The commencement of the amended Newcastle City Centre and Wickham DCP chapter occurred in November of 2018, after the lodgment of the original application.

Notwithstanding, the original application was assessed against the locality provisions listed under Section 6.03 Wickham. Accordingly, the modified proposal has been considered against Section 6.01.

Section	Criteria	Comment
6.01.02 Character Areas	The West End The area is the western gateway to Newcastle's city centre and is an area of unrealised potential. It currently has showroom and bulky good facilities, retail, car dealerships and self-storage. The precinct has fewer public domain assets. Improvement of public open space is needed.	The proposal as modified will still continue to meet the needs and demands of the future CBD by providing a mixed-use development that provides residential and employment opportunities. The proposal will provide an inviting entry to the building that will activate the frontage along Hannell and Dangar Street.
6.01.03 General Controls		
A1 Street Wall Heights	New buildings have a street wall height of 16m unless indicated otherwise.  Any development above the street wall height is set back a minimum of 6m.  Corner sites may be emphasised by design elements that incorporate some additional height above the street height.	The modified proposal maintains a street wall height of 16m.  There are no proposed changes to setbacks above the street wall height.  The design above the podium level remains unchanged.
A2 Building Setbacks	Front setbacks are nil (zero) unless shown otherwise.  Where it is not possible to meet the setbacks in Figure 6.01-13 and Table 6.01-1 new development	The modified proposal does not seek to amend any approved setbacks.

	<p>aligns with the adjoining front setbacks.</p> <p>When a setback is used, footpaths, steps, ramps and the like may be provided within it.</p> <p>Minor projections beyond the setback are possible for Juliette balconies, sun shading devices, and awnings.</p> <p>Projections into the setbacks are complementary to the style and character of adjoining buildings</p>	
	<p>A2.2 Side and Rear Setbacks.</p> <p>Development may be built to the side and rear boundary (a nil setback) below the street wall height.</p> <p>Commercial development above street wall height is consistent with the side and rear setbacks outlined in Table 6.01-1 and Figure 6.01-14.</p>	The modified proposal does not seek to amend and approved setbacks.
A3. Building separation	<p>Buildings achieve the minimum building separation for commercial buildings within the same site, as shown in Table 6.01-2 and Figure 6.01-14.</p> <p>Building separation distances may be longer for residential and mixed-use developments to satisfy SEPP 65 guidance.</p> <p>Sites with a road frontage 100m or greater include separation between buildings to maximise view corridors between the buildings and provide appropriate through-site links</p>	The residential component of the proposal remains unchanged.
A4. Building depth and bulk	<p>Buildings achieve the maximum building depth and floor plate sizes as outlined in Table 6.01-3.</p> <p>Buildings with large floor plates are expressed as separate building elements, as shown in Figure 6.01-15.</p> <p>Buildings above street wall height have a maximum building length of 50m.</p> <p>Floor plates are flexible and allow adaption for multiple configurations or uses.</p>	The building form, bulk, and scale remains unchanged. The height is slightly increased, this is to accommodate the additional floor to ceiling height on levels 1-3.
A4.2. Good Internal amenity with minimal	Workspaces in office buildings achieve adequate natural light.	Additional commercial space is now proposed on level 1-3. To ensure the

heating, cooling and lighting.	<p>Design solutions include windows, atria, courtyards or light wells and by locating workspaces within 10-12m from a window or daylight source.</p> <p>Consider opportunities to incorporate natural ventilation for commercial and mixed-use development. Design solutions include the use of cross ventilation or stack effect ventilation via atria, light wells or courtyards to reduce reliance on artificial sources.</p>	commercial space can achieve adequate natural light, glazing is now extended to along each elevation. Mechanical louvers also extend along the increased glazing.
A5. Building exteriors	<p>Materials and finishes complement the character of the precinct.</p> <p>External walls are constructed of high quality and durable materials and finishes with low maintenance attributes such as face brickwork, rendered brickwork, stone, concrete and glass.</p> <p>An exterior material and finishes sample board and schedule shall be submitted with development application to show the quality of the materials proposed.</p>	The modified proposal has suggested design amendments to approved materials and finishes.
A5.2 Building materials make a positive contribution to the streetscape and public domain.	<p>Buildings are articulated to differentiate between the base, middle and top.</p> <p>Visually prominent parts of buildings such as balconies, overhangs, awnings, and roof tops are of high design quality.</p> <p>Roof lines are to be designed to create a visually interesting skyline with roof plant and lift overrun integrated into the overall architectural design of the building.</p> <p>Facades do not incorporate large expanses of a single material, including reflective glass.</p>	There are no proposed changes to the approved building form, bulk, and scale. Amendments are proposed to the glazing of the western, southern and eastern elevation, however are acceptable having regard to the controls.
A5.3 Building exteriors are designed to ensure a positive contribution to streets and public spaces.	<p>Building exteriors clearly define the adjoining streets, street corners and public spaces, designed with safety in mind and easy to navigate for pedestrians.</p> <p>Where development exposes a blank wall a visually interesting treatment is applied to the exposed wall.</p>	The reduction of parking and inclusion of additional commercial space on the ground floor reduces the amount of blank wall.
A5.4. Building exteriors respond to adjoining buildings.	<p>Adjoining buildings are considered in terms of:</p> <p>(a) appropriate alignment of building line, awnings, parapets, cornice lines and street wall heights</p>	Consideration has been given to the proposed interface with the Newcastle Transport Interchange to the south of the site.

	<p>(b) setbacks above street wall heights</p> <p>(c) selection of materials and finishes</p> <p>(d) facade proportions including horizontal or vertical emphasis</p> <p>(e) detailing of the interface with adjoining buildings.</p>	
A8. Design of parking structures	<p>At-grade or above-ground parking structures are well designed.</p> <p>Minimise the visual impact of at grade or above-ground parking structures.</p> <p>Basement car parks are designed to provide protection against flooding.</p>	The proposed modification includes an added level of basement parking.
<p>B. Public domain</p> <p>B1. Access network</p>	<p>Improved and new pedestrian connections are as shown in Figure 6.01-19 and are designed in accordance with the City Centre Public Domain Technical Manual.</p> <p>Sites with a street frontage 100m or greater incorporate additional pedestrian connections to improve access and permeability.</p> <p>New pedestrian connections are within comfortable walking distance to public transport.</p> <p>Streets and lanes are connected to encourage pedestrian use.</p> <p>Way finding signage is incorporated and clearly defined.</p>	<p>The development remains to enhance pedestrian amenity along Dangar Street and Hannell Street; and affords surveillance of the street from the retail premises at ground level as well as office space atop.</p> <p>The Newcastle Interchange is to the site with adequate pedestrian access available. The development is within close proximity to cycle routes.</p>
B2 Views and Vistas	<p>B2.1. Public views and sight lines to key public spaces, the waterfront, prominent heritage items and landmarks are protected.</p> <p>B2.2. New development achieves equitable view sharing from adjacent development.</p>	<p>A view corridor has been outlined, running along Stewart Avenue, past the site and through to the harbour. Updated view perspectives of the proposal have been provided within the Architectural Plans at Appendix C.</p> <p>Given the site's location, the proposed modified development will not result in any impacts to the identified public view corridor.</p>
B3 Active Street Frontages	B3.1 In identified activity hubs ground floor uses add to the liveliness and vitality of the street.	Ground floor retail premises will remain along the Hannell Street frontage.
B6 Sun access to public spaces	B6.1 Reasonable sunlight access is provided to new and existing significant public spaces.	The proposed modification does not affect solar access to any significant public spaces

### Section 6.03 - Wickham

The site is located within the mapped area of Section 6.03 Wickham of the DCP and is within the Rail Edge key Precinct. The Rail Edge precinct is envisaged to support high density residential development and ground level commercial uses, with neighbourhood level retail and services activating street corners.

Section	Criteria	Comment
6.03.02 Building Envelopes		
	<p>A. Setbacks to streets</p> <ul style="list-style-type: none"> <li>- Minimum 3m to Hannell Street</li> <li>-3m acquisition to Station Street for street/footpath works</li> <li>10m acquisition to Charles Street (south-west corner) for open space/public domain improvements</li> </ul>	<p>The proposed building setback at street level to Hannell Street is a minimum of 3m and the proposed setback to Dangar Street and Charles Street is 2.5m. The street level setback is satisfactory.</p> <p>Potential land acquisitions' were identified in the Wickham Master Plan, and were further referenced in the DCP from 16 November 2018. The application was lodged prior to the DCP being adopted. The proposal is for a modification, no amendments that include acquisition of land is being proposed. The development will continue to allow for pedestrian flow and connectivity within the Wickham area.</p> <p>The minimum street setback above 12m building height is a minimum of 6m to Charles and Hannell Street; 5m to Dangar Street; and 4m to the Station Street southern boundary. This remains unchanged.</p> <p>The existing development includes a street wall height of 16m which is generally consistent with the DCP, this remains unchanged.</p>
	B. Setbacks to neighboring sites	<p>The proposed setbacks above the street wall varies from 2m to 6m on Hannell Street, Dangar Street and Charles Street frontages. This remains unchanged.</p> <p>The proposed building is of a form, scale and massing that is generally compatible with the anticipated future character of the area.</p>
6.03.03 Urban Design		
	A. Interface to the street	<p>The modification includes amendments to the podium level, level 1-3, ground floor, with the inclusion of additional office space and removal of car parking to the additional basement level. Removing parking to the basement additional basement level, and inclusion of additional glazing on the 1-3 floor, ensures compatible elements have been used to produce a responsive interface.</p>

	B. Urban activation spaces	The proposal provides good urban activation to the street with a mixture of active street frontages at ground level through the inclusion of retail uses. In addition, the residential units are mostly orientated toward the surrounding streets.
	C. Vehicle access to land	The proposed vehicle and service entries are accessed via Charles Street, being consistent with this section and considered to be acceptable.
6.03.04 Car Parking		
	A. Car parking demand management	The number of car parking spaces is consistent with the DCP.
	B. Design of parking structures	Car parking is provided on four levels, including two levels above ground and is accessed via Charles Street. The proposed car parking is integrated into the building, including provision for the minimum ceiling height, and is considered to be acceptable.
6.03.05 Constraints on development		
	A. Flooding	The ground floor parking level and the basement carpark entry and service areas have been designed to achieve the required Floor Planning Level (refer to 4.01 Flood Management) and are considered to be acceptable.
	B. Mine Subsidence	The site is not identified as being within a proclaimed Mine Subsidence District and is considered acceptable.

## Section - 7.02 - Landscape, Open Space and Visual Amenity

Landscaping is located on the podium level. The modification involves minor design changes to the podium and therefore changes to the previous landscaping plan are proposed. The plans indicate a large, landscaped area which provides acceptable amenity for future occupants.

## Section 7.03 - Traffic, Parking and Access

### Vehicular Access, Driveway Design and Crossing Location

#### Driveway & Access

The modified proposal has retained the driveway access from the Charles Street frontage of the property as per the original proposal. It is noted that Charles Street has been made 'One-Way' as part of the Wickham Masterplan and therefore the driveway access will be left in/left out.

The internal access ramps have been designed to Australian Standards. The design of the internal car parking and loading areas are compliant and the submitted manoeuvring plans have demonstrated that vehicles will be able to enter and exit from the site.

The ground floor access to the parking areas have been designed to accommodate for pedestrian and cyclist movement from the proposed end user facilities.

### Parking Demand

An Addendum Traffic Report prepared by MLA Transport Planning has been provided in response to the request for information. The ATR demonstrates that the proposed development is generally sustainable.

The ATR has adequately justified the variation in the off-street parking provision. It is noted that based on the CN DCP, the development is short of 46 off-street car parking spaces.

It is noted that the initial traffic report submitted with the modified proposal sought a variation to the DCP parking rate which was not adequately justified. However, the ATR has now taken into consideration the different provisions of transport for the development. The ATR considered the sustainable move towards the use of adjacent public transportation, the use of alternative transport, while also considering the shared use of the off-street car parking between residential and the retail/commercial components of the development. Further to this, the proposal has been revised to provide additional end user facilities via the provision of secured lockers, bicycle parking, and additional toilet and shower facilities.

The ATR has placed emphasis for sustainable transport and the multi-use of the available commercial/retail parking spaces, a solution which CN is supportive of. CN encourages a transport mode shift to the use of public and alternative transport to reduce the dependency on vehicles.

The traffic consultant has also stated that a Green Travel Plan will be prepared as part of the project and have indicated that a Green Travel Plan condition can be added to the development application.

### Off-Street Parking Provision

The modification proposal impacts on the demand for off-street car parking demand. The development has proposed a total of 198 off-street car parking spaces, 19 motorbike spaces, 179 bicycle spaces, 3 x light commercial/utility spaces and 1 small rigid vehicle bay.

### Off-Street Car Parking

The ATR has provided detailed qualitative car parking comparisons of the proposed vs approved development. The ATR provided an in-depth parking analysis for the residential, commercial, and retail components of the development as well as discussing transport shift towards the greater use of public transport.

Off-Street Car Parking Comparison chart as provided by MLA (Table 4) for DA2018/01197 vs Proposed DA2018/01197.02 as follows:



**Table 4: Approved and Proposed Development**

Land Use	Approved Development		Proposed Development	
	No. Dwellings/ Floor Area	Parking	No. Dwellings/ Floor Area	Parking
Residential Use				
- 1-Bed Units	19 Units	11	19 Units	11
- 2-Bed Units	68 Units	61	68 Units	61
- 3-Bed Units	10 Units	14	10 Units	14
- Visitors	-	20	-	10
- Sub-Total	97 Units	106	97 Units	96
Non-Residential Uses				
- Retail	1,062m <sup>2</sup>	18	1,362m <sup>2</sup>	17
- Commercial	4,386m <sup>2</sup>	73	6,894m <sup>2</sup>	85
- Sub-Total	-	-	-	102
<b>Total</b>	-	<b>197</b>	-	<b>198</b>

The off-street car parking proposal and non-compliant elements of the development has been highlighted in red in the ATS as indicated in Table 3 of the traffic report:

**Table 3: Proposed Parking Provision**

Land Use	Proposed Development	DCP Requirements		Proposed Parking Provision
		Car Parking Rates	Car Parking Spaces	
Residential Use				
- 1-Bed Units	19 Units	0.6 spaces per dwelling	11	11
- 2-Bed Units	68 Units	0.9 spaces per dwelling	61	61
- 3-Bed Units	10 Units	1.4 spaces per dwelling	14	14
- Visitors	-	1 space first 3 dwelling plus 0.2 space per dwelling thereafter	20	10
- Sub-Total	97 Units	-	106	96
Non-Residential Uses				
- Retail	1,362m <sup>2</sup>	1.0 space per 60m <sup>2</sup> GFA	23	17
- Commercial	6,894m <sup>2</sup>	1.0 space per 60m <sup>2</sup> GFA	115	85
- Sub-Total	-	-	138	102
Total	-	-	244	198

Note: Proposed changes to parking requirements are highlighted in red.

It is proposed to provide a total of 198 car parking spaces comprising:

- 87 resident car parking spaces
- 10 residential visitor car parking spaces
- 17 retail car parking spaces, and
- 85 commercial car parking spaces.

## Parking Management

### Residential Car Parking

The development proposal is for 97 residential units, which is consistent with the previous approved DA. Off-street car parking is assessed in accordance with the DCP CBD parking rates and the proposed Residential Parking off-street car parking is compliant with DCP2012. The parking allocation for the 1 – 3-bedroom units have been indicated on the architectural plans and is also noted on the addendum traffic report.

### Residential Visitor Parking

The applicant has proposed 10 spaces allocated for residential visitors parking and 10 visitor parking spaces to be shared between the retail and residential visitors. The 10 flexible spaces will be used by the retail component of the development during retail hours and will be used by residential visitors during off-peak hours and weekends.

The applicant has indicated the 10 spaces will be sign posted as part of the parking management and will be used by retail generally for Monday – Friday between 8.30am - 5.30pm. This is considered acceptable.

#### Service Parking and Wash Bays

A total of four on-site delivery/service parking bays, all of which are located on the ground level and accessed via the Charles St frontage. The original approved proposal provided three spaces. The proposed development has increased the demand for provision of on-site delivery spaces therefore the provision of an additional service/delivery parking space has been provided.

A small rigid vehicle (SRV) loading bay is provided and is expected to be the largest vehicle within the site is SRV. Turning templates for SRV have been provided and the height clearance at the car park entry is 3.5m, which complies with Australian Standards. The SRV space will be used for waste collection (mostly for commercial/retail), deliveries, and can also be used for the moving in/out of residential units.

Parking bay No. 7 on the ground level car park will be used for loading and as a car wash for the residents, which is compliant with NDCP.

#### Commercial and Retail Parking

The development site is adjacent to the Newcastle Transport Exchange, which consists of the new Bus Exchange (under the Store Building), Light Rail, Heavy Rail, and the additional Bus Stops on the Stewart Avenue frontage of the site. The availability of public transport for the future commercial and retail is in close proximity to the site.

A total of 85 Commercial and 17 Retail parking spaces are proposed. As indicated in Table 3 of the MLA Addendum Traffic Report, commercial spaces result in a non-compliance of 30 spaces (26%) and retail by 6 spaces (26%) when compared with the DCP required parking rates.

The off-street car parking provided by the proposal for commercial and retail is deemed to be satisfactory to service the proposed uses. Furthermore, the proposed development's deficiency for car parking can be more than sustainable via use of the transport exchange for the purpose of travelling into/out of the new Newcastle City Centre hub in Newcastle West/Wickham.

#### Motorbike Parking

A total of 19 Motorbike parking spaces have been provided in the basement areas and is generally distributed over the three levels of basement parking. The number of parking spaces proposed is generally in accordance with the DCP and complies with Australian Standards.

#### Bicycle Parking

The development has proposed additional bicycle parking space above the DCP rates, with a total of 179 bicycle spaces. The bicycle parking is generally secured and is distributed from the four levels of parking within the site.

The applicant has provided additional end user facilities and these include; accessible toilets, additional shower, and secured locker facilities on ground floor and commercial levels. The allocation of bicycle parking between residential, commercial, and retail have been addressed by the applicant after concerns were raised by CN.

Pedestrian/cyclist/vehicular access and conflict management on the ground level have also been resolved. This will be managed with pavement markings as part of the process to generate a slow pedestrian friendly environment.

It is noted that the development is within walking and riding distances to the waterfront and major cycleways linking to the beaches and other recreational areas.

### Conclusion

CN is encouraging the use of public transport in the Newcastle LGA, with Newcastle West/Wickham being the new CBD City Centre. The Wickham Masterplan identifies the area including the subject site, as a location that should activate the Newcastle Transport Exchange.

CN is encouraging of a move towards sustainable transport, the modified development has proposed multiple use of parking spaces therefore utilising the available car spaces as much as possible. On this basis the variation to required car parking on site is supported.

### Traffic Management

#### Traffic Generation

The traffic report has considered the issues surrounding traffic generation. It is noted that the Wickham Masterplan has been developed by CN, during the master planning process the road network and traffic movements within the area were examined.

The submitted traffic report stated there will an additional 24 vph in the morning peak and 27 vph in the afternoon peak.

The traffic generation from the development is unlikely to impact on the current local and state road network system and is therefore considered sustainable.

#### Construction Traffic

The proposal is directly fronting Hannell Street and has no formal access from this street frontage. Entry to the development will therefore be restricted via Bishopsgate Street to the site.

The development will be required to address how the construction traffic management will be managed, this includes staff and trades parking as part of the construction certificate process.

It is noted that the applicant has commenced discussions with CN Traffic and Transport team to manage the construction traffic during works.

#### Consultation with TfNSW

A formal referral from TfNSW has been received and TfNSW have supported the modified proposal. The proposed application has fundamentally retained the original footprint and setback of the building and has not altered any road reserve outline when compared with the original approval.

The development has generally complied with TNSW requirements by providing adequate areas for pedestrian movement adjoining the Newcastle Transport Interchange.

There is also a proposal via Transport for NSW to construct a slip lane from Hannell Street into Bishopsgate Street, which was required as part of the adjoining development at 38 Hannell Street (Stella). This will likely change the entry at Hannell Street/Bishopsgate Street being a one-way entry, however the timeframe for this change has not been advised by TfNSW.

### Conclusion

The development as modified generally complies with NDCP2012 and relevant Australian Standards for off-street parking. The development is unlikely to cause traffic delays or impact traffic flows. The additional works in the public domain including the raised pedestrian crossing will assist in pedestrian safety and movement.

The development has maintained pedestrian movement management along Hannell Street and along the existing through link between Hannell Street and Station Street (Aka Station St Through Link).

The development as modified is acceptable in respect to traffic management.

### Section 7.05 - Energy Efficiency

Suitable energy efficiency provisions having been included in the proposed modified development.

### 7.06 Stormwater

#### Introduction

ACOR Consultants have been engaged by the applicant to undertake the stormwater assessment for the modification application. The revised stormwater plans address the changes to the additional basement and other changes to the building footprint.

#### Stormwater Reuse, Retention and Treatment

The revised stormwater design has indicated a stormwater reuse tank within the site with 72m<sup>3</sup> volume for reuse and retention, which is consistent with the original approved application. The reuse will be for the retail level on the ground floor, commercial levels, the podium level landscape, and the ground level landscaped areas.

Stormwater quality and quantity assessment by ACOR have demonstrated compliance with CN DCP2012 guidelines for reuse and stormwater and has been designed to mitigate downstream impacts. The following features are noted in the design:

- Rainwater Tanks (72 kilo litres) for stormwater reuse.
- Stormwater treatment provided via Water Treatment Chamber. The chamber has been installed with SPEL filter cartridges, which will provide the stormwater treatment for the site.
- Discharge is proposed to be connected to the new drainage system on Charles Street.

#### Drainage Connection

Stormwater design allows the discharge from the on-site retention tank to be connected to the existing kerb inlet pit (KIP) on Charles Street. The proposed connection will be via a 300mm diameter pipe. The existing KIP will be relocated due to the proposed driveway.

### Maintenance & Monitoring and Safety

The proposed stormwater structures will require regular monitoring and maintenance to ensure the system is functional. A detailed monitoring and maintenance plan will need to be provided with the Construction Certificate submission as previously conditioned.

### Conclusion

The principles of WSUD and the requirements of the DCP have been applied to the development. The submitted modified stormwater plans and supporting documents have demonstrated that the development will not impact of the downstream stormwater system and is sustainable.

### Groundwater Management

The proposed development will affect the groundwater table as there are three levels of basement. A formal response from WaterNSW has been received. WaterNSW have not objected to the development and conditions have been recommended in the referral response regarding the dewatering processes and environmental monitoring.

A revised dewatering management plan prepared by Pumps United has been submitted and the groundwater is proposed to be discharged to CN drainage system on Charles Street.

CN has provided an in-principle support for groundwater discharge connection to Charles Street and a separate Roads Act approval will be required for the proposed temporary dewatering connection.

### Section 7.08 - Waste Management

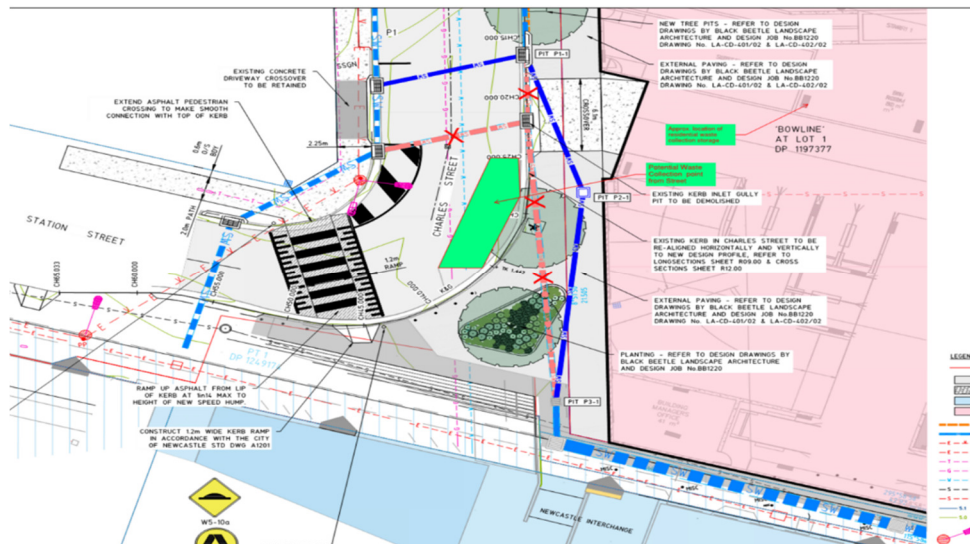
#### Waste Collection

Waste collection for the residential, commercial, and retail have been proposed via private collection from the provided bin storage areas on the ground floor area. Generally, the SRV service bay will be used for bin collections.

Although, CN does not object to the proposal as submitted however, CN still requires that the residential component of the bin storage areas and location of this area should be designed to be suitable for CN to provide waste collection service for the residential waste collection if required in the future.

The residential bin collection area has been designed to be closer to the Charles Street frontage. CN heavy rigid trucks are able to park at the corner Charles Street/Station Street and collect the residential bins from the allocated storage area, which is designed to satisfy CNs required travel distance (See Image 1 below of the street collection point)

The development can therefore be serviced by CN if the need arises, which will be subject to a separate agreement with CN Waste Management Services.



**Figure 5**— CN truck parking for waste collection highlighted in green.

### The Wickham Master Plan

The Wickham Master Plan was adopted by council on 28 November 2017, the plan outlines the vision for the area until 2040. The Master Plan has divided the area into six interconnecting precincts with the subject site being located within the Rail Edge precinct. Furthermore, when considering the redevelopment potential of the area, the masterplan has mapped the subject site as an area that 'may change'. The proposed amendments as made under the modification, ensure greater activation of the street by allowing for additional commercial and retail use from level 1-3 and the ground floor.

The Master Plan identifies the land bound by the Newcastle Transport Interchange, Stewart Avenue, Hannell, Bishopsgate and Charles Street as having the potential to accommodate an even greater building height of up to 60m. In introducing a departure from the prescribed height limit, buildings located within the subject area could accommodate an acceptable scale which provides a transitioning of built form from a height limit of 90m to a height of 60m. The massing and dominance of the surrounding development will soften with this transitioning approach, allowing for cohesive design and suitable scale when viewed from public areas.

The modified development proposal results in a minor increase in the height, mostly as a result of the change in ceiling height of the lower commercial areas and basement level. The proposal no longer complies with the height limit of 45m prescribed under the NLEP 2012 yet remains well below the suggested 60m building height as detailed within the Master Plan.

The Master Plan considers possible incentive-based mechanisms that enable the assessment of additional density above the prescribed development standards. It is accepted that there is a potential opportunity for the community to benefit from an increase in densities by requiring land identified as being suitable to include infrastructure not typically attainable through standard developer contributions. Despite this, the incentive-based mechanism is not yet formally adopted or gazetted within Council's LEP. As such, exceptions to development standards are still assessed under clause 4.6 of the LEP. Notwithstanding, as the application is a modification application, the application does not require the submission of a clause 4.6 Variation Request.

### Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019

As the proposed development has an estimated cost of works over \$100,000 the application attracts a section 7.12 local infrastructure contribution pursuant to s.4.17 of the EP&A Act and

the 'Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019' (s.7.12 Plan). The subject site is located on land to which 'Part B (City Centre)' of the s.7.12 Plan applies.

In accordance with Part B of the s.7.12 Plan a local infrastructure contribution of 3% of the cost of the development (\$1,759,448.10) is payable to City of Newcastle (subject to indexation). Payment of the required contribution will be imposed through recommended modified conditions of consent.

The payment deferral arrangements enabling payment prior to the issue of the first occupation certificate applies from the 8th July 2020 to when the COVID-19 prescribed period ends.

#### **5.1.3.4 Planning agreements**

No planning agreements are relevant to the proposal.

#### **5.1.3.5 The regulations (and other plans and policies)**

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act* and *Regulation 2000*. In addition, compliance with AS 2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

#### Hunter Regional Plan

The Hunter Regional Plan provides an overarching framework to guide land use plans, development proposals and infrastructure funding decisions. The NSW Government's vision for the Hunter is to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

To achieve this vision the Government has set four goals for the region:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities
- Greater housing choice and jobs

The proposed development provides an additional range of housing and employment opportunities, along with retail, food and drink, within a city centre location and is consistent with the objectives of the Hunter Regional Plan.

#### Lower Hunter Regional Strategy

The primary purpose of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years.

The proposal will contribute to both provision of increased housing within the Newcastle City Centre and the availability of commercial space within the inner city. It is considered that the proposal meets the planning outcomes envisioned within the Lower Hunter Regional Strategy.

#### **5.1.3.6 Coastal management plan**

No Coastal Management Plans apply to the site or the proposed development.

#### **5.1.3.7 The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

## Public Domain Works

### Pedestrian Management

It is expected that there will be a high volume of pedestrian movement in the vicinity of the development due to the retail, commercial, and residential uses, and proximity to a major public transport hub. The proposed development has been designed to allow for additional width along the frontages for pedestrian movement. It is assumed that these areas will be available for public access 24/7. A right of carriageway/footway will be created over the publicly accessible area to ensure that the areas remain clear. The publicly accessible areas include the corner of Dangar Street and Charles Street where the property boundary is close to the existing kerb.

The proposed driveway is close to the Newcastle Transport Interchange entry, being the corner of Station Street, and Charles St. Charles Street has been altered to a one-way street, therefore pedestrian safety and movement will need to be appropriately managed.

A raised pedestrian crossing is to be constructed at the corner of Station Street and Charles Street to ensure pedestrian safety can be managed. This will provide for a safe pedestrian crossing point to connect the north and south sides of Station Street to mitigate the risks associated with the proposed driveway being in proximity to the intersection and to ensure pedestrian safety.

### Public Domain Works (Roads Act Application)

A Roads Act application has been lodged with CN for the proposed public domain and associated works which formed part of the Original DA, satisfying Condition 22 and the Wickham LATM. The submitted Roads Act application is under review, some minor amendments are to be completed prior to formal approval being granted.

The Roads Act (RA) application generally consists of the following:

- The changes to on-street parking scheme.
- Proposed raised pedestrian crossing at the corner of Station St.
- Footpath Upgrade works along Hannell St, Dangar St, Charles St and Station St and kerb extension works for pedestrian management.
- New Footpath pavement treatment to be generally continued from the Interchange and around the property.
- Landscaping of all frontages of the site including new street trees, paver pavement and planter beds.
- Stormwater and drainage works.
- Street lighting works.

It is noted that a section of Charles Street from the intersection of Dangar Street has been changed into a one-way street system.

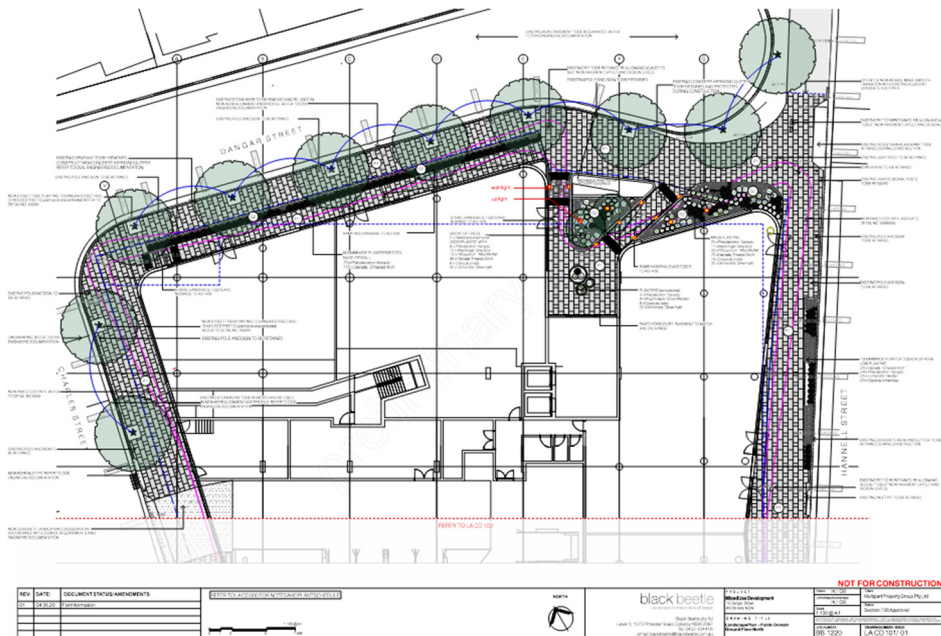
A detailed landscape and subsequent civil plans have been submitted to CN as part of the RA application as indicated on figures 17, 18 and 19.

A separate approval will be required for the dewatering connection approval and any temporary ground anchors works within the road reserve.

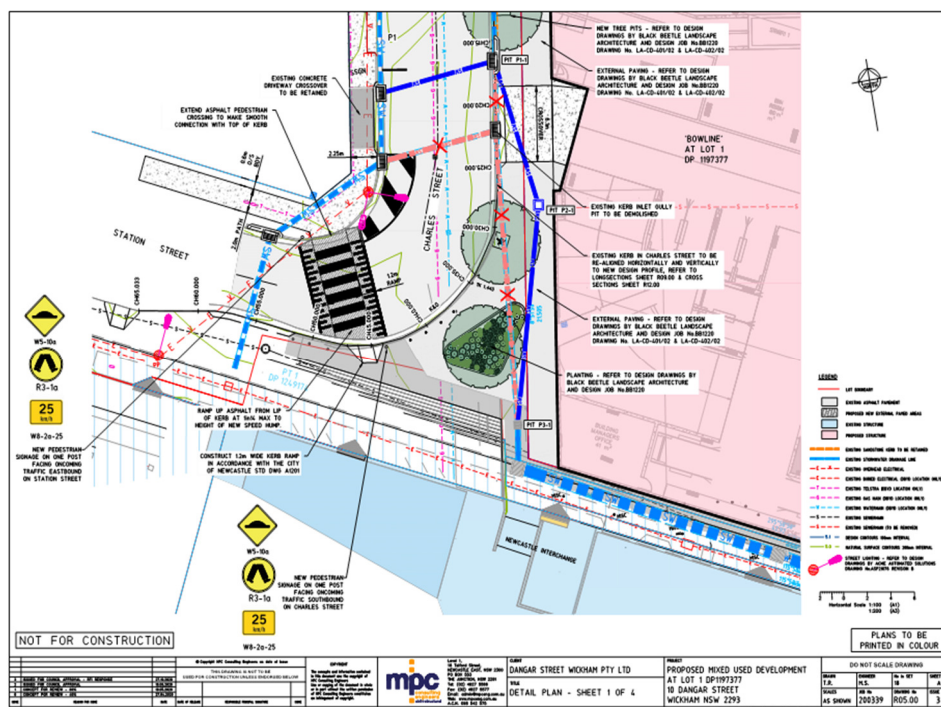
The submitted plans have provided open spaces adjoining the Newcastle Exchange, along Dangar Street, Charles Street and Station Street. The revised plans have clearly indicated a



minimum 3.5m wide footway along Hannell Street, which allows for the area to be publicly accessible.



**Figure 6 – Public domain landscaping proposal**



**Figure 7 – Civil Proposal**

### Wind tunnelling

The Newcastle area is subject to strong winds, particularly during winter. As the proposed development is a tall building with a large surface area, there is a potential for the proposed development to influence wind movement, including through the creation of downward drafts from the facade impacting the ground plane below.

The applicant did not provide a wind tunnelling assessment during the assessment of the original application nor was it conditioned. A condition has been placed on the modified consent requiring a wind assessment prior to the release of the construction certificate.

#### View loss and visual impact

The site is within the vicinity of existing high-density residential development and as discussed, the proposal will increase in height from 46.7m to 47.96m. The potential impacts of the modified development on the views of existing and proposed development within the vicinity to the subject site have been assessed.

The nearest existing residential development within the direct vicinity of the site is the 'Bishops Gate' residential apartment building is a smaller scale development, located to the north of the site. Directly east of the Bishops Gate development and north of the subject site is the 'Stella' residential apartment building, currently under construction. The 'West End Apartments' located at 3 - 13 Charles Street is a smaller scale residential development, split into two towers at podium level, fronting both Charles and Station Street.

Whilst the development is within the vicinity of the long-distance views afforded from these existing residential developments towards the Newcastle Harbour and foreshore, the development is anticipated by the land zoning and applicable development controls. Views enjoyed through and over the subject site by the nearest residential developments are not unreasonably impacted. In addition, the increased height resulting from the modification is minor and will not result in any additional impact to view loss or visual impact.

#### WaterNSW

The site proposed for the development is located on an aquifer with a geological formation excluded from water sharing plans gazette under the *Water Management Act 2000* and remains under the *Water Act 1912*.

WaterNSW no longer issues General Terms of Approval under the *Water Act 1912* as the integrated development provisions as per Section 4.46 of the EP&A Act only apply to the *Water Management Act 2000*

However, WaterNSW can consider granting and issuing a license under Section 115 and 116 of the *Water Act 1912* for dewatering subject to exemptions under the Embargo Gazetted on the 11 April 2008. The consent holder must obtain the necessary licenses from WaterNSW prior to the commencement of any works to extract groundwater.

WaterNSW recommends that the conditions listed under **Appendix G** are included on the modified development consent.

#### **5.1.3.8 The suitability of the site for the development**

As discussed throughout this assessment, the site is considered suitable for the additional basement level and design changes to the original approved scheme as the site has been identified for the scale and form of development through the strategic planning process, specifically the Wickham Master Plan.

The variations sought to the development standards are acceptable given the circumstances of the development site. The modifications sought to the original approved design scheme do not substantially change the built form characteristics or impacts associated with the originally development.

The site is located within walking distance of the Newcastle Transport Interchange, employment, educational and recreational opportunities within the immediate and broader

locality. It can be considered that given the proximity to the public transport services, there will be minimal impact on local traffic flows.

#### **5.1.3.9 Any submissions made in accordance with this act or the regulations**

The application was notified and advertised in accordance with the Regulations, as detailed and no submissions were received.

#### **5.1.3.10 The public interest**

The development is in the public interest and will allow for the orderly and economic development of the site, in accordance with previously approved plans. The development continues to allow for the creation of a range of housing with varying accommodation sizes.

Further, the additional floor space for commercial and retail activities will ensure the development will assist in meeting both the predicted housing and employment space required to achieve the strategic outcomes listed in the Hunter Regional Plan and Wickham Master Plan. Furthermore, in considering the environmental characteristics of the site and the proposed development, the site can suitably accommodate the intended land use.

The development as modified does not result in any unreasonable impacts to adjoining properties or the public domain, and subject to the imposition and compliance with the recommended modified conditions of consent, the granting of development consent to the application is in the public interest.

## **6. CONCLUSION**

The proposal is considered to be acceptable against the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

## **7. RECOMMENDATION**

That the Hunter and Central Coast Regional Planning Panel, as the relevant consent authority, approve Modification Application DA2018/01197.02 for the addition of third basement level, extension of the basement building envelope to facilitate servicing, increase in office space, floor to ceiling height of the office levels 1-3, reconfiguration of ground floor parking, ramp location, end of trip facilities, and the relocation of lift core to approved DA2018/0119 for demolition of existing structures and erection of a 14-storey mixed use development', subject to the modified conditions contained in **Appendix B**.