

Planning and Regulatory: G.Mansfield
Reference: PB2018/05114

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Dear Mr Kirk

**MIXED USE DEVELOPMENT (SSD 8440) 42 HONEYSUCKLE DRIVE,
NEWCASTLE**

I refer to your email of 2 May 2018 advising the applicant Doma Holdings (Honeysuckle) Pty Ltd has submitted further information (Response to Submissions), including amended plans, and inviting Council to comment.

The *Response to Newcastle City Council's Submission* ('the Response'), prepared by KDC, dated April 2018 and other relevant information, as well as the amended plans submitted to the Department on 15 May 2018 have been reviewed by Council officers and the following comments are offered for your consideration:

1. Newcastle Local Environmental Plan 2012

The Response has not satisfactorily addressed the permissibility issue regarding the residential flat building component of the amended development. It is argued that:

'As the development consists of mixed uses the residential flat building component becomes permitted with consent under Clause 7.7 of the LEP. Therefore there is no legitimate reason that the proposal does not comply regarding permissibility.'

As explained in Council's previous submission, clause 7.7 was empowered by the pre-2014 version of the Newcastle Local Environmental Plan 2012 (NLEP) because a residential flat building was a use permitted with consent in the B3 Commercial Core zone. Under the current version of the plan, the only form of residential accommodation permitted with consent in the B3 zone is shop top housing. The fact that the residential flat building comprises a component of a mixed use development does not overcome the prohibition on such development. Further, for clause 7.7 to have any independent legal standing it would need to be prefaced by the statement *'Despite any other provision of this Plan...'*

2. Built form and Urban Design

The Response is noted.

3. Newcastle Development Control Plan 2012

The Response has not satisfactorily addressed the relevant requirements of section 6.01.03 of the Newcastle Development Control Plan 2012 (DCP). Instead, reference is made to some comments of Council's Urban Design Consultative Group on a preliminary version of the proposal.

It is acknowledged that the DCP does not apply to State significant development. Notwithstanding this, Council is still able to request planning controls relevant to a development are addressed in the Environmental Impact Statement (EIS) of an application. In this regard, the Department of Planning and Infrastructure fact sheet entitled 'What is State significant development and how are applications assessed and determined? (February 2012) indicates that while development control plans do not apply to SSD, *'in responding to a development application , a local council can identify controls with a development control plan that relate to a proposed development and can request that they be addressed in the EIS'*. In this case, the Secretary's Environmental Assessment Requirements required the EIS for the proposal to *'address the relevant planning provisions, goals and strategic planning objectives'* in the DCP.

For the Department to make an informed consideration of the setbacks, building exteriors and building depths and bulk of the proposal any non-compliance with the above requirements of the DCP (prepared by the Department) should at least be acknowledged and justified by the applicant.

4. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The Response is noted.

5. Section 94A Development Contributions Plan 2009

The Response is noted.

6. Flood Management

The Response satisfactorily addresses the issues raised. An appropriate condition of consent has been recommended.

7. Stormwater and Groundwater Management

The Response satisfactorily addresses the issues raised. An appropriate condition of consent has been recommended.

8. Traffic and Parking

Item (a) On-street pick-up/drop-off zone

The proposed on-street pick-up/drop-off zone (i.e. 5min parking zone) on the Honeysuckle Drive frontage of the site has been considered by Council's traffic engineers and is supported in-principle; however, a final decision will be made

after consideration by the Newcastle City Traffic Committee at its meeting on 21 May 2018.

A Council traffic engineer has advised that:

'In the event the Committee does not support the proposal, the proposal can be revisited as part of the Public Domain and Raised Pedestrian Crossing works (See comments below), which may itself require removal of some parking spaces and redesign of the kerb alignment on the street.'

In regards to the comments made in the submissions by KDC and Intersect Traffic regarding the parking available for hotel patrons, the use of public metered parking spaces, public transport and use of online pre-booking of hotel parking spaces these ideas are generally similar to the principles for a Green Travel Plan.

In addition, the proposed loading dock on the ground floor could also accommodate provision of a small bus drop-off for group visitors and random car drivers/taxi/Uber. This could form part of the management plans which can be conditioned for the development.'

Please note if the above zone is supported it will be necessary for the design of the development to be amended to provide compensatory footway on site to replace that lost by the proposed indentation of the footway to ensure the standard width is maintained. An appropriate condition will be recommended in this regard.

Items (b)-(h)

The Response addresses the issues raised. Appropriate conditions of consent have been recommended, where considered necessary.

9. Pedestrian network

A Council traffic engineer has reviewed the supplementary information provided and advised as follows:

'The submitted RFI prepared by Intersect Traffic has not provided sufficient information to demonstrate that the raised pedestrian crossing has no direct nexus to the proposed development.'

The issues of the proposed raised crossing and on-street pick-up/drop-off zone were discussed in length with the applicants at a meeting held in early April. It was understood that these facilities would form part of the proposal to be considered by the Newcastle City Traffic Committee.'

In light of the above advice, Council's previous recommendation that this matter can be dealt with by way of conditions of consent and an s138 application remains.

10. Waste management

The Response has not satisfactorily addressed the issues raised regarding waste management. According to the submitted Waste Management Plan (WMP) dated 24 August 2017 prepared by Elephants Foot recycling solutions all waste collection would occur on site.

According to the WMP,

'Council's collection vehicle will enter the site from Honeysuckle Drive, where it will park on the turntable. The collection staff will wheel the bins from the residential waste room to the vehicle for servicing and return upon completion.

The turntable will then rotate the truck 180 degrees to allow the vehicle to leave the site in a forward direction'.

It is noted on the amended plans the vehicle turntable has been deleted and a bin collection area has been provided predominantly on the public footway in Honeysuckle Drive in front of the *transformer landing zone* of the proposed building.

No explanation has been provided in the Response for these amendments or consideration given to the likely impacts. The location of the bin collection area (BCA) on the footway is not supported and the design of the development is to be modified so the BCA is located in the proposed building no greater than 20 metres from the street frontage, or alternatively the residential waste is collected by a private contractor on site and the WMP is amended accordingly.

11. Contamination

The Response has not satisfactorily addressed the issues raised.

A Council Environmental Protection Officer has provided the following comments:

It is noted that in response to the concern raised in Council's previous submission the applicant has engaged Site Auditor Fiona Robinson of Rambol to provide interim advice on the adequacy of the RAP with respect to current regulatory requirements. This advice, however, will not be available for another 2 or 3 weeks (from the date of the submission). In the meantime, a brief paragraph from the auditor has been provided which states the overall cap and contain strategy is appropriate, however changes to the contaminated land guidelines has resulted in changes in the analytes now requiring remediation.

It would appear the Department has still not been provided with Ms Robinson's interim audit, it is recommended that approval not be granted until such time as the site auditor has completed her review and confirmed in an interim advice letter that the Environmental Site Assessment, Remedial Action Plan and Acid Sulfate Soils Management Plan are appropriate and do not require revision. This is to ensure that an informed planning decision can be made and that appropriate conditions of consent can reference specific documents which comply with current guidelines and which may be enforced as required.

If you have any questions in relation to the various matters raised in this submission, please contact me by gmansfield@ncc.nsw.gov.au or on 02 4974 2767.

Yours faithfully



Geof Mansfield
PRINCIPAL PLANNER (DEVELOPMENT)