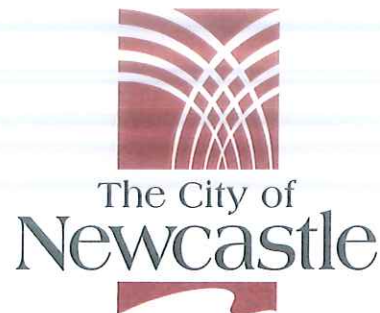


Planning and Regulatory: G.Mansfield
Reference: PB2017/06965
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22 August 2017

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Dear Ms Sarkies

**MIXED USE COMMERCIAL AND RESIDENTIAL DEVELOPMENT
DOMA HOLDINGS P/L (SSD 8019) 50 HONEYSUCKLE DRIVE, NEWCASTLE**

I refer to the Department's letter of 30 June 2017 notifying Council that the above State significant development application was on public exhibition and inviting Council to comment on the proposal.

The submitted application and Environmental Impact Statement (EIS) have been reviewed by Council officers and the following comments are offered for your consideration:

1. Built form and Urban Design

As acknowledged in the EIS, clause 7.5 of the Newcastle Local Environmental Plan 2012 requires that a consent authority must have regard to whether a proposal exhibits Design Excellence. In addition, as the proposed mixed use development includes a residential flat building comprising three or more storeys with four or more dwellings, consideration must also be given to the design quality principles set out in Schedule of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Buildings (SEPP 65) and the objectives in Parts 3 & 4 of the Apartment Design Guide.

Prior to submitting the development application the applicant sought the advice of Council's Urban Design Consultative Group (UDCG) in regards to the compliance of a preliminary design for the development with the design quality principles set out in SEPP 65.

According to the minutes of the UDCG meeting of 19 October 2016, the summary recommendation of the Group was as follows:

'In general, the UDCG supports the massing strategy and density proposed.

Concerns are raised in this report about:

(i) activation of the foreshore and private ownership of the complete ground-floor to the foreshore.

(ii) aesthetic expression of the elevations, particularly the northern façade and balconies.

(iii) quality of the pedestrian through-links.'

In respect of the specific issues raised the following comments are provided:

Activation of the foreshore

'Context and Neighbourhood Character' is a design principle to be addressed under SEPP 65.

In considering the context and neighbourhood character of the development site the UDCG observed:

'To the east along the foreshore, are a series of residential flat buildings above commercial and retail developments. The dominant pattern of this strip is: (i) ground floor retail to Honeysuckle Drive, (ii) cafes or restaurants to the foreshore with, (iii) apartments above. This pattern has activated the foreshore and been very successful and it desirable for it to continue, in some variation, on the proposed site. Indeed, a great success of much of the Honeysuckle development has been that the ground level is retained for public or commercial access and service.'

In respect to the built form and scale of the preliminary version of the development, the UDCG was not supportive of:

'... the continuous strip of private courtyards lining the ground level of the waterfront façade. Where this has happened elsewhere of the Newcastle foreshore it has sterilised the space, causing privacy problems, undermining safer-by-design principles, and creating a largely blank face to the harbour at street level. Because the proposed development is to the west of the primary restaurant strip there is no need for its entire northern face to be retail or café, but some activation of the ground floor of the north façade is necessary.'

A SOHO variation to the Terrace houses could also be used to create a more activated façade to the foreshore.'

In considering the above principle the EIS states *'In an area of mixed-use development the proposed building aims to address the scale and streetscape along Honeysuckle Drive whilst providing through-site links to support the pedestrian movement that has already been established to the east.'*

In regard to the presentation of the private courtyards to the foreshore, the EIS highlights that each of the dwellings *'features a defined building entry and associated landscaping to Worth Place Park, which is considered to directly respond to the foreshore setting of the site. Furthermore, the dedicated pedestrian access to the terrace dwellings will increase patronage of Worth Place.'*

In response to the activation of the ground floor of the northern façade the design of the development has been amended to include a kiosk in the north east corner of the proposed building. The EIS argues that the combination of ground floor terrace

dwellings and the kiosk is appropriate given the *'abundance of commercial tenancies to the east of the site'*.

It is evident that the UDCG was not expecting, as exists in the adjoining development to the east, the entire ground floor facing the foreshore to include commercial tenancies, however the provision of a single kiosk is not considered to be a satisfactory response and it is recommended that the applicant be required to reconsider this issue and either further amend the design of the development or provide a more comprehensive justification for the design of the development in its current form.

Aesthetic expressions of the elevations

In regard to item (ii), the following extract from the minutes is relevant:

'The Group does not support the use of continuous glazed balustrades to external balconies. A combination of solid and void balustrades along with moveable screens (to conceal drying areas, BBQs and air conditioning units) is needed. This is critical on the northern elevation, facing the harbour, but also necessary for the southern elevation, which faces a row of office buildings.'

Quality of the pedestrian through-links

In regard to item (iii), the following extract from the minutes is relevant:

'The two through-site links need some refinement and development to ensure that they are safe (some over-looking from apartments will help as will careful lighting design) and modelled to provide some shelter from wind and rain. There are minimal 'desire lines' for pedestrian movement where the links are located, so that the risk is that they would be somewhat bleak and little used. One alternative might be to ensure that there is retail activation at both ends of the links, another might be to provide only one public link, and extensively 'green' the other as an attractive communal amenity.'

Based on an examination of the submitted plans it would appear that the design of the development has been modified in response to some of the above comments. However, it would be helpful if the applicant could provide a written narrative which provides specific details of the design changes made in this regard.

(For the full text of the UDCG minutes refer to Attachment 31 of the EIS.)

Landscape

One of the design principles of SEPP 65 is Landscape. The principle states:

'Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.'

The northern boundary of the subject site abuts that part of the Newcastle Harbour foreshore, known as Worth Place Park. The photomontage diagrams of the development provide conceptual illustrations of the development and a future landscape scheme for the foreshore. While the submitted landscape plans consider

the 'foreshore promenade interface' of the site, no details are provided regarding any future landscaping works on the foreshore as depicted in the photomontages.

Given the concerns raised above by the UDCG regarding the interface of development with the foreshore it would be beneficial if the applicant, perhaps in conjunction with the Hunter Development Corporation, could provide a concept public domain plan for Worth Place Park.

As indicated in Council's Pre-DA letter of 29 March 2017 to the applicant, the upgrade works in the promenade waterfront area will need to be designed and reviewed with Council. Any request in the future for dedication of this land and handover of assets will need to be formally lodged with Council.

2. Newcastle Development Control Plan 2012

The Secretary's Environmental Assessment Requirements for the development required the EIS to consider the provisions of the Newcastle Development Control Plan (DCP) 2012.

While the majority of the relevant sections of the DCP have been addressed, no consideration has been given Section 6.01.02 - Character areas. This section of the DCP contains the character statements and supporting principles for development in eight 'character areas', including Honeysuckle, located in the Newcastle City Centre. Given the concerns raised by the UDCG it is appropriate that this section of the DCP is considered in the EIS.

The EIS has also not considered the requirements of Section 3.03 - Residential Development. However, it is acknowledged that this section only became operative on 10 July, 2017 after the EIS was completed. Nevertheless, consideration of this section should be provided.

Other sections not addressed are:

- Section 4. 04 - Safety and Security

Note - An amendment to Section 4.04 is currently on public exhibition until 11 September 2017

- Section 4. 05 - Social Impact

3. Section 94A Development Contributions Plan 2009

The EIS indicates that under the above Section 94A Plan the applicable development contribution is 2% of the estimated cost of the development.

Council recently adopted changes to the above plan; these changes came into force on 14 August 2017 and apply to applications lodged on or after this date. The changes included the levy applicable in the Newcastle City Centre.

The new levy is indicated in the following table.

5 What is the Part B section 94A contributions levy rate/amount?

| Type of Development | Maximum % of the Levy |
|--|-----------------------|
| Residential Development <i>** Levy only applies to development with an estimated cost of more than \$250,000**</i> <i>Applies to all development defined as Residential Accommodation in the Newcastle Local Environmental Plan 2012.</i> | 3% |
| Non Residential Development <i>A minimum of 60% of the gross floor area of the proposed development must contain a <u>non residential</u> use as defined by the Newcastle Local Environmental Plan 2012.</i> | 2% |

The new levy does not apply to the development as the development application was submitted to the Department before the above commencement date.

It is noted the total commercial floor space of 210 sq. m indicated in the submitted Cost of Works Estimate Report (Refer to Attachment 16 of the EIS) is marginally different from the 226 sq. m indicated in section 3.3 Development Statistics of the EIS. This inconsistency should be addressed and the required monetary contribution adjusted accordingly.

4. Flood Management

The submitted Flood Impact Assessment prepared by Northrop has been reviewed and the following additional information is requested:

- The development is to be provided with flood refuge within the site in accordance with the requirements of Section 4.01 -Flood Management of the Newcastle Development Control Plan 2012. The development plans are to clearly indicate the proposed location/s of the flood refuge. The refuge/s will need to be set above the Probable Maximum Flood (PMF) level for local (flash flooding) of 3.65m Australian Height Datum (AHD).
- Any openings that lead to the basement (except for vehicular access) such as exhaust duct and the car park air intake will need to be designed to be protected at PMF level (3.65m AHD).

5. Stormwater and Groundwater Management

According to Council records, there are existing Council drainage pipes which pass across the property and discharge to the Hunter River. The Council drainage pipes seem to be servicing the existing road and adjoining properties. No information has been provided on how this infrastructure will be maintained or new stormwater infrastructure provided.

It is recommended that the applicants undertake an extensive survey of the existing Council drainage network and provide investigation details to Council. Detailed report and design will need to be provided which address the provision of the drainage infrastructure.

Works zone

According to the submitted Traffic Assessment report prepared by SECA Solution, the development will be using the Honeysuckle Dr frontage as a 'Works Zone' for the delivery of materials and building related matters. The existing bus Stop may be impacted (or may require to be relocated) by the proposal. Accordingly, consultation will be required with the relevant stakeholders, including the private operators of Newcastle Transport and tourist transport companies. If the bus stop is to be relocated the approval of the Newcastle City Traffic Committee (NCTC) will be required.

Accessible parking spaces

It is noted that the number of accessible parking spaces far exceeds the number required for the development under the Australian Standard AS/NZS 2890.6.

It is recommended clarification be sought from the applicant regarding the number of accessible spaces proposed.

8. Waste management

According to the EIS, it is proposed to use the existing bus stop to the east of the property (before the Worth Place roundabout) as a loading area for garbage pick-up. This aspect of the development will need to be supported by the relevant stakeholders including the private operators of Newcastle Transport and tourist transport companies and approved by the NCTC. At this time, Council cannot confirm if this aspect of the development would be acceptable.

The submitted Waste Management Plan indicates Council will be servicing the waste collection once a week. The applicant will need to obtain an approval contract from Council's Waste Management Team for such service, in the first instance.

9. Contamination

The subject land was remediated, validated and a site audit statement issued in 2005 which determined the site to be suitable for the proposed development subject to the following conditions:

- Groundwater should not be used on-site unless it is demonstrated to be suitable for site specific uses.
- The phytotoxicity of the various metals within soils should be assessed and the appropriate landscaping undertaken, if the fill materials are to be used for landscaping at the site.

Appropriate conditions of consent should be applied, or it should otherwise be ensured, that these comments are addressed and enforced as part of the development approval process as far as is practicable.

It is noted that the investigation, remediation, validation works and site audit statement documents are over 10 years old. Contaminated land guidelines such as the National Environment Protection (Assessment of Site Contamination) Measure 1999 (2013) have changed during this period. The site auditor should confirm that the site audit statement is still valid.

10. Noise

The acoustic assessment prepared by Renzo Tonin & Associates provides a fairly basic level of assessment of the proposal focussing on general ambient noise impacts upon the proposal and potential impacts from future plant and equipment upon nearby receptors. The report recommends that further detailed assessment and acoustic attenuation measures need to be incorporated into the future design of buildings once more specific design elements are known. Appropriate conditions should be applied to ensure these requirements are carried out as part of the development process.

It is noted that the acoustic assessment did not specifically address potential noise impacts from future commercial landuses on the ground floor of the building. Ground floor restaurants/licenced premises have resulted noise impacts upon residents living above/adjacent in similar type buildings located further south along Honeysuckle Drive which has generated complaints to Council and police. It would appear that the design of the buildings may minimise such potential impacts however this issue should be addressed by an acoustic consultant.

11. Acid Sulfate Soil/dewatering

The submitted acid sulfate soil management plan prepared by Douglas Partners outlines a number of management strategies to address the excavation of soil and management of surface and groundwater; however no specific strategy has been selected.

A substantial amount of contaminated groundwater will need to be appropriately managed and potentially disposed of as part of construction works. Dewatering activities have caused management issues (and at times resulted in enforcement action by Council) with a number of large construction sites across Newcastle LGA as a result of often insufficient consideration given to the practicality of management options until construction works have commenced. It should be ensured that the proposed management strategies are practical, that any necessary ancillary approvals are sought and that appropriate conditions of consent applied in relation to future dewatering activities.

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)