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REPORTS BY COUNCIL OFFICERS

ITEM-50  CCL 09/05/17 - EXHIBITION OF AMENDMENT TO SECTION 6.01
NEWCASTLE CITY CENTRE OF NEWCASTLE DEVELOPMENT
CONTROL PLAN 2012

Attachments A and B

ITEM-51  CCL 09/05/17 - EXHIBITION OF DRAFT PLANNING AGREEMENT
FOR RAIL CORRIDOR LAND BETWEEN WORTH PLACE AND
WATT STREET NEWCASTLE

Attachment A
CCL 09/05/17
EXHIBITION OF DRAFT AMENDMENT TO SECTION 6.01 NEWCASTLE CITY CENTRE
OF NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

Attachment A: Draft Section 6.01 Newcastle City Centre
6.01  Newcastle City Centre

Amendment history

<table>
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<th>Version Number</th>
<th>Date Adopted by Council</th>
<th>Commencement Date</th>
<th>Amendment Type</th>
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<tr>
<td>1</td>
<td>-</td>
<td>September 2014</td>
<td>New</td>
</tr>
<tr>
<td>2</td>
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Savings provisions

Any development application lodged but not determined prior to this section coming into effect will be determined taking into consideration the provisions of this section.

Land to which this section applies

This section applies to the Newcastle City Centre as shown in Figure 6.01 - 1 below.

Figure 6.01-1: Newcastle City Centre Land Application Map

Development (type/s) to which this section applies

This section applies to all development consisting:

- New buildings or structures
- Additions or alterations to existing buildings or structures
Applicable environmental planning instruments and legislation

The provisions of the following listed environmental planning instrument/s also apply to development applications to which this section applies:
- Newcastle Local Environmental Plan 2012
- State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- State Environmental Planning Policy No 71 - Coastal Protection
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

In the event of any inconsistency between this section and the above listed environmental planning instrument, the environmental planning instrument will prevail to the extent of the inconsistency.

Note 1: Additional environmental planning instruments may also apply in addition to those listed above.

Note 2: Section 74E (3) of the Environmental Planning and Assessment Act 1979 enables an environmental planning instrument to exclude or modify the application of this DCP in whole or part.

Related sections

The following sections of this DCP will also apply to development to which this section applies:
- Any applicable land use specific provision under Part 3.00
- 4.04 Safety and Security
- 7.02 Landscaping, Open Space and Visual Amenity
- 7.03 Traffic, Parking and Access
- 7.05 Energy Efficiency
- 7.06 Stormwater
- 7.07 Water Efficiency
- 7.08 Waste Management

Note 1: Any inconsistency between the locality specific provision and the landuse specific provision, the locality specific provision will prevail to the extent of the inconsistency.

Note 2: Provisions within Section 6.01.04 - Key Precincts will have precedence over other sections of the DCP.

The following sections of this DCP may also apply to development to which this section applies:
- 3.01 Subdivision - where subdivision of land is proposed
- 4.01 Flood Management - all land which identified as flood prone under the Newcastle Flood Policy or within a PMF or area likely to flood.
- 4.03 Mine Subsidence - within mine subsidence area
- 5.01 Soil Management - works resulting in any disturbance of soil and/or cut and fill
- 5.02 Land Contamination - land on register or where risk from previous use
- 5.03 Tree Management - trees within 5m of a development footprint or those trees likely to be affected by a development
- 5.04 Aboriginal Heritage - known/likely Aboriginal heritage item/site and/or potential soil disturbance
- 5.05 Heritage Items - known heritage item or in proximity to a heritage item.
- 5.06 Archaeological Management - known/likely archaeological site or potential soil disturbance
- 5.07 Heritage Conservation Areas - known conservation area
- 7.04 Movement Networks - where new roads, pedestrian or cycle paths are required.
- 7.09 Advertising and Signage
- 7.10 Street Awnings and Balconies - awnings or balconies located over public land

**Associated technical manual/s**
- City Centre Public Domain Technical Manual

**Definitions**

A word or expression used in this development control plan has the same meaning as it has in Newcastle Local Environmental Plan 2012, unless it is otherwise defined in this development control plan.

Other words and expressions referred to within this section are defined within Section 9.00 - Glossary, of this plan.

**Additional information**

This Newcastle Development Control Plan (DCP) section provides detailed standards and guidance for development in Newcastle’s city centre.

This section forms part of the community vision and is consistent with the provisions of the Newcastle Local Environmental Plan (LEP) 2012. It is to be read in conjunction with the LEP and other relevant sections of the DCP for the assessment of all development applications in the city centre.

This guide has been developed to consolidate and replace sections 6.01 and 6.02 of the Newcastle Development Control Plan 2012. This guide has performance criteria that explain the planning outcomes to be achieved. Accompanying the performance criteria are acceptable solutions that illustrate the preferred way of complying with the corresponding performance criterion. There may be other ways of complying with performance criteria and it is up to the applicant to demonstrate how an alternative solution achieves this.

**Development Application requirements**

3D modelling: any application to carry out development that exceeds two storeys in height, or development that is in a “Key Precinct” is to be accompanied by a 3D file of the proposed development within the context of the Newcastle CBD 3D model. The format should be compatible to that used by the City of Newcastle council.

The 3D Model should be used to develop the following information:
- context 'before' and 'after' streetscape drawings/images and/or photomontages;
- shadow diagrams; and
- assessment of impact on view corridors.
Urban Design Consultative Group

Council has established an Urban Design Consultative Group to provide independent urban design and architectural advice on major development proposals within the Newcastle City Centre. The Urban Design Consultative Group is recognised by the Minister for Planning as a SEPP 65 Design Review Panel. In addition to providing advice on SEPP 65 matters, the Group may consider any development matters in accordance with the approved Charter for the Urban Design Consultative Group.

Note: Clause 7.5 (4) of the Newcastle Local Environmental Plan 2012 requires an architectural design competition for certain types of development.

Clause 7.5 (6) of the Newcastle Local Environmental Plan 2012 states that the consent authority may grant consent for a variation of up to 10% of the maximum floor space ratio or height control if the proposal has been reviewed by a Design Advisory Panel.
6.01.01 Introduction

The vision

Newcastle City Centre will continue to grow and evolve to strengthen its position as the Hunter Region’s capital. The city centre will reflect the Newcastle Community Strategic Plan 2030 vision to be a ‘Smart, Liveable and Sustainable City’, and the initiatives of the Newcastle Urban Renewal Strategy. Newcastle city centre will be an attractive city that is built around people and reflects our sense of identity.

Purpose of this section

This Development Control Plan section has been prepared as an implementation action of the Newcastle Urban Renewal Strategy. It integrates place-based planning for Newcastle East, Honeysuckle and Newcastle West. The Development Control Plan section contains a comprehensive set of planning and design guidelines. The design guidelines are derived from the characteristic features of distinct areas within the city centre.

Aims of this section

1. To implement the Newcastle Urban Renewal Strategy
2. To integrate planning for Newcastle East, Honeysuckle and Newcastle West
3. To provide a comprehensive set of planning and design guidelines based on the characteristic of distinct areas within the city centre.

Image 6.01-1: Potential public domain improvements to Crown Street, with active uses such as outdoor dining (Impression: Arup 2012)
6.01.02 Character Areas

A. Character Areas overview

Within the city centre there are a number of areas with distinct characteristics. These ‘character areas’ each have their own unique setting that provide opportunities for the ongoing renewal and revitalisation of the city centre. They are divided into areas based on their attributes, including topography, landscape, heritage, streetscape, land uses and built form. The character areas are described in the following character statements in this part and are identified in Figure 6.01-2.

In addition to the character areas, seven ‘key precincts’ have been identified. The key precincts are focused around major public spaces in the city centre and have special provisions outlined in Part 6.01.04 of this DCP section that need to be considered.

This part contains the character statements and supporting principles for development within all character areas of Newcastle’s city centre. The statements are place-specific and build on the existing urban structure, character of the neighbourhoods and important elements that will contribute to the future quality of the area. The statements are supported by a number of principles that help reinforce and enhance the character of each locality.

Figure 6.01 1: Character Areas Overview

Overall principles

1. The unique character of each Character Area is enhanced.
2. New development has regard to the fabric and character of each area in scale, proportion, street alignment, materials and finishes and reinforce distinctive attributes and qualities of built form.
3. Heritage items and their setting are protected.
4. Public spaces, including streets, lanes and parks maintain high levels of solar access.
5. Active frontages address the public domain.
6. Existing significant views and vistas to buildings and places of historic and aesthetic importance are protected.
B. West End

This area is the western gateway to Newcastle’s city centre and is an area of unrealised potential. It currently has showroom and bulky goods facilities, retail, car dealerships and self storage. The predominance of larger consolidated land holdings and fewer environmental and heritage constraints make this precinct ideally suited to become the future CBD of Newcastle. This precinct has fewer public domain assets. Improvement of public open space is needed to ensure the precinct is well-served as it evolves into a commercial precinct. Public domain opportunities include improvements to Birdwood Park, the Cottage Creek corridor and connections to the river foreshore. Public domain improvements should be in accordance with any adopted public domain plan of Council.

Principles

1. New public spaces are created to meet the demands of the future CBD and existing public open spaces are improved, such as Birdwood Park and Cottage Creek. Opportunities for new publicly accessible spaces are identified.

2. Birdwood Park is recognised as an important element in the public domain network and as the western ‘gateway’ to the city centre.

3. New development fronting Birdwood Park addresses the park edge and promotes a sense of enclosure by being built to the street alignment. Any new development ensures adequate midwinter lunch time sun access to Birdwood Park.

4. Development along the rail corridor, Cottage Creek, lanes or through-site links provide a building address to encourage activity, pedestrian and cycleway movement, and improve safety.

5. Building entries are inviting with activate frontages that allow visual permeability from the street to within the building.

6. Distinctive early industrial, warehouse and retail buildings that contribute to the character of the area are retained and re-purposed.

7. Heritage items and their setting are protected.
C. Honeysuckle

Honeysuckle is currently the premier locale for A-grade large floor plate commercial office development. A range of complementary uses include higher density residential development, restaurants and hotels which take advantage of Honeysuckle’s prime position on the Hunter River foreshore. Honeysuckle has opportunities for significant public domain. The extension of the foreshore park westwards will form a continuous publicly accessible foreshore that extends from Maryville to Merewether around the city centre peninsula.

**Principles**

1. Development between the rail corridor and Honeysuckle Drive provides a building address to both frontages.
2. Development along the waterfront, Cottage Creek, lanes or through-site links provide a building address to encourage activity, pedestrian and cycleway movement, and improve safety.
3. Heritage items and their setting are protected

![Figure 6.01 4 - Honeysuckle Character Area](image)

![Image 6.01-3: Honeysuckle Drive, A-grade commercial office building](image)

![Image 6.01-4: Honeysuckle waterfront, mixed-use development](image)
D. Civic

Civic is the administrative, cultural and educational centre of Newcastle. It includes facilities that reflect Newcastle’s importance as a major regional city such as Newcastle Museum, Newcastle Art Gallery and City Hall. It is the location of major public assets such as Wheeler Place and the Civic Theatre.

The relocation of the courts to Civic and the introduction of more educational facilities associated with the University of Newcastle will have a major effect on the future character and activity within this area. Smaller commercial spaces will redevelop as support services for the courts and the university, and an increased student population will create flow-on demand for housing, retail and other services.

**Principles**

1. The pedestrian connection linking a number of the city's cultural buildings and spaces is reinforced, between Newcastle Art Gallery, through Civic Park and Wheeler Place, past the Newcastle Museum to the foreshore of the Hunter River.

2. Visual and physical connections through the area and between Civic and the Hunter River foreshores are opened.

3. Development between the former rail corridor and Hunter Street provides a building address to both frontages.

4. Public open space in the heart of Civic is improved and expanded through the addition of the Civic Link to complement and enhance Wheeler Place.

5. Development along publicly accessible spaces, lanes or through-site links provide a building address to encourage activity, pedestrian and cycleway movement, and improve safety.

6. Mid-winter lunch time sun access is protected to the footpath on the south side of Hunter Street and to Wheeler Place, Civic Link, Civic Park and Christie Place.

7. Distinctive early industrial, warehouse, and retail buildings that contribute to the character of the area are retained and re-purposed.

8. Development is encouraged that will support the role of Civic as the primary administrative, cultural and educational centre of Newcastle.

9. The expansion of Civic should extend northwards to link the Civic public realm to Newcastle Museum.
E. Parry Street

The area to the north of National Park and south of King Street is currently a mixture of commercial development with some residential and retail development such as the shopping centre, Marketown. In the future, this precinct will be characterised by more high density residential development taking advantage of the good amenity offered by proximity to the city centre and National Park and available services such as retail, entertainment and employment opportunities.

Figure 6.01-6: Parry Street Character Area

Image 6.01-8: Hall Street, an area in transition

Principles

1. Public domain spaces are improved to support the evolving character of the area into a high-density residential and mixed use precinct.

2. Distinctive early industrial and warehouse buildings that contribute to the character of the area are retained and re-purposed.

3. Development along Cottage Creek provides a building address to encourage activity, pedestrian and cycleway movement, and improve safety.

Image 6.01-9: Parry Street, new residential development
F. East End

East End centres on the former Hunter Street Mall (between Perkins and Newcomen Street) and the terminus of Hunter Street at Pacific Park. The precinct is characterised by hilly topography and a mix of uses focusing on the retail spine of Hunter Street Mall. The subdivision is more finely grained than other areas of the city centre. A mix of heritage listed and historic buildings give this part of Newcastle a unique character and offer interesting and eclectic streetscapes.

Principles

1. Hunter Street Mall continues to be the main retail spine of the area, supported by a range of complimentary uses, including residential, commercial, entertainment and dining.

2. Hunter Street Mall is recognised and enhanced as a major pedestrian space and an informal meeting place.

3. The historic fine grain character is maintained and enhanced.

4. Significant views to and from Christ Church Cathedral are protected, including views from Market Street and Morgan Street. Views to Hunter River are protected and framed along Market Street, Watt Street and Newcomen Street.

5. Vistas that terminate at significant heritage buildings are protected, such as Fort Scratchley.

6. Distinctive early industrial, warehouse and retail buildings that contribute to the character of the area are retained and re-purposed, including prominent corner buildings.

7. Existing laneways and pedestrian connections are enhanced.

8. Heritage items and their setting are protected. New buildings respect the setting of heritage buildings.

9. In-fill buildings, additions and alterations to respond to the height, massing and predominant horizontal and vertical proportions of existing buildings.

10. Recreational opportunities are created by establishing public space and pedestrian connections from Scott Street to the Hunter River foreshore.
G.  Newcastle Beach

With the redevelopment of Newcastle Hospital, Newcastle Beach has emerged as the location of a cluster of high rise tourist and visitor accommodation and high quality residential apartments overlooking the beach.

Newer developments have been accompanied by high quality public domain improvements and good pedestrian through-site connections to the beach front. The area adjoins Newcastle East Heritage Conservation Area, so development on this edge must ensure sensitive transitions responding to the lower scale development in Newcastle East Heritage Conservation Area.

**Principles**

1. The public domain and amenity is enhanced to support the high-density residential and hotel uses.
2. Pedestrian access is improved to Newcastle Beach.
3. New development addresses the street to provide a good interface with the public domain.
4. Development adjoining Newcastle East Heritage Conservation Area creates a transition in scale by aligning the scale, proportion, from and finishes of the associated buildings.
5. The high environmental quality of the area is maintained.
H. Newcastle East Heritage Conservation Area

Newcastle East Heritage Conservation Area is characterised by an intact heritage streetscape which is recognised by its inclusion as a Heritage Conservation Area in Schedule 5 of Newcastle LEP 2012, and by the number of state significant heritage items. It is a highly significant cultural landscape that provides a record of the early development of Newcastle.

The area is primarily residential with terrace housing dating from the late nineteenth century. Small corner shops and other ancillary retail or commercial uses are present. Terrace houses are built to the street boundary, with many featuring first floor verandas that overhang the footpath.

The fringes of the area feature heritage listed warehouses that have been converted for residential and commercial uses, and notable buildings including Fort Scratchley Historic Site, Boatman's Row, the Cohen Bondstore and Coutt's Sailors Home. The north edge of Newcastle East Heritage Conservation Area is bounded by the Coal River Precinct, a place of outstanding heritage significance listed on the NSW State Heritage Register.

Development in this area is subject to the provisions of the Newcastle DCP 2012 heritage provisions and the following principles.

**Principles**

1. The heritage significance of Newcastle East Heritage Conservation Area is retained and conserved.

2. Development responds to and complements heritage items and contributory buildings within heritage conservation areas, including streetscapes and lanes.

3. New development respects the scale, character and significance of existing buildings.

4. Existing views and vistas are maintained into and out of the area to the water and the foreshore parkland.

5. The continuity of Newcastle East's heritage conservation is retained and the diverse social mix of the area is maintained.
I. Foreshore

The extensive foreshore is the primary open space asset of Newcastle's city centre. It showcases the city’s unique natural setting, between the Hunter River and the Pacific Ocean. The foreshore provides public access linking the river and ocean waterfronts and is also the location of many significant heritage places such as Newcastle Railway Station buildings, Fort Scratchley, Customs House, the Ocean Baths and Nobby's Point lighthouse. Key public facilities can also be found in this precinct such as Nobby's Beach, Newcastle Beach, Queens Wharf, Nobby's Beach Surf Pavilion, and the foreshore cycleway and promenade. Development must complement the leisure, recreation and heritage uses of the Foreshore area.

Principles

1. The area is enhanced and continues to be the city's major recreational open space for Newcastle’s workers, residents and visitors.

2. New public open space provides recreational opportunities for the community and key access links to the foreshore.

3. New development respects the scale, character and significance of existing buildings, especially heritage items.

4. New development promotes and facilitates the continuity of public access to the whole foreshore.

5. New development complements the use of public spaces as an events space.

6. Heritage items and their setting are protected, including the Aboriginal cultural heritage and non-Aboriginal archaeology.

7. The adaptive re-use of the Newcastle Railway Station maximises the long term potential of the site as a major visitor and community focal point.
6.01.03 General controls

A. Building form

A1. Street wall heights

Street wall heights refer to the height of the building that addresses the public street from the ground level up to the first building setback. They are an important element to ensure a consistent building scale in streets that have a mix of uses, heritage items and infill development.

Street wall heights can provide a sense of enclosure to the street and contribute to the city’s character through street alignment with appropriate street-width to building height ratios. They can also have a direct impact on sunlight access to the public domain.

Performance criteria

A1.1. Street wall heights of new buildings define and enclose the street, are appropriately scaled and respond to adjacent development.

Acceptable solutions

1. New buildings have a street wall height of 16m unless indicated otherwise in Figure 6.01-12.
2. Any development above the street wall height is set back a minimum of 6m, as shown in Figure 6.01-11.
3. Corner sites may be emphasised by design elements that incorporate some additional height above the nominated street height.

Alternative solutions

- The street wall height of new buildings may vary if the desired future character is to maintain the existing street wall height of neighbouring buildings, such as heritage streetscapes.
- Deeper setbacks above the street wall height may be needed for heritage buildings or conservation areas to maintain the scale of the streetscape and the setting of heritage items.
- Where it can be demonstrated that there will be no adverse impact in terms of overlooking, overshadowing, or streetscape appearance, a variation to the street wall height setback may be possible.
Figure 6.01-12: Street wall heights plan
A2. Building setbacks

A building setback is the distance between the building and the street boundary, a neighbouring site, waterfront, or any other place needing separation. Building setbacks can enhance development and its relationship with the adjoining sites and the public domain, particularly in terms of access to sunlight, outlook, view sharing, ventilation, wind mitigation and privacy.

In a city centre it is desirable to locate the frontage of lower levels (the podium) on the street boundary to give strong definition to the street and create setbacks in the upper building elements.

Performance criteria

A2.1. Building setbacks define and address the street and public domain spaces, and respond to adjacent buildings.

Acceptable solutions

1. Front setbacks are nil (zero) unless shown otherwise in Figure 6.01-13 and Table 6.01-1.
2. Where it is not possible to meet the setbacks in Figure 6.01-13 and Table 6.01-1 new development aligns with the adjoining front setbacks.
3. When a setback is used, footpaths, steps, ramps and the like may be provided within it.
4. Minor projections beyond the setback are possible for Juliette balconies, sun shading devices, and awnings. Projections into the setbacks are complementary to the style and character of adjoining buildings.

<table>
<thead>
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<td>Part of building</td>
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<tr>
<td>-----------------------------------------</td>
</tr>
<tr>
<td>Below street wall height</td>
</tr>
<tr>
<td>Between street wall height and 45m</td>
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<tr>
<td>Above 45m</td>
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</tbody>
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Table 6.01-1: Minimum setback for side and rear boundaries
Performance criteria

A2.2 Side and rear setbacks enhance amenity and allow for ventilation, daylight access, view sharing and privacy for adjoining buildings.

Acceptable solutions

1. Development may be built to the side and rear boundary (a nil setback) below the street wall height.
2. Commercial development above street wall height is consistent with the side and rear setbacks outlined in Table 6.01-1 and Figure 6.01-13.

Alternative solutions

- Where there is no adjoining development to respond to, half the separation distances to boundary recommended in the Apartment Design Guide may be acceptable.
- Where there are no openings within the wall, the side setbacks are consistent with Table 6.01-1 and Figure 6.01-13
Figure 6.01-13: Building setbacks plan

Newcastle City Centre

6.01 Newcastle Development Control Plan 2012
A3. Building separation

Building separation is the distance between two or more buildings on the same site. Building separation ensures ventilation, daylight access, view sharing and increased privacy between neighbouring buildings. In residential buildings and mixed-use buildings, separation between windows and balconies from other buildings is particularly important for privacy, acoustic amenity, view sharing and sun access.

Building separation can also enhance the built form by visually separating building elements that can result in more usable public domain spaces in terms of mitigating wind impact and ensuring daylight access. Building separation provided at lower levels, between buildings on the same site, can visually break long building frontages and provide opportunities for mid-block through-site links that connect to other streets or open space.

Performance criteria

A3.1. Sites that accommodate more than one building achieve adequate daylight, ventilation, outlook, view sharing and privacy for each building.

Acceptable solutions

1. 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.

2. Building separation distances may be longer for residential and mixed-use developments to satisfy SEPP 65 guidance.

3. 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.

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<td>Up to 16m</td>
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<tr>
<td>Nil or 6m for link</td>
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Table 6.01-2: Minimum building separation

Image 6.01-19: Solid walls with non-habitable room windows are used for end elevations to manage privacy impacts

Image 6.01-20: Building separation in this residential development allows for ventilation, daylight access, view sharing and privacy

Figure 6.01-14: Section showing minimum separation distances between buildings within the same site and a minimum 6m separation where a through-site link is required.
A4. Building depth and bulk

The size of building floor plates has a direct impact on building bulk and urban form. Setting a maximum size of floor plates is also important to allow for ventilation, daylight access, view sharing and privacy in neighbouring development and the public domain.

Performance criteria

A4.1. Building depth and floor plate sizes relates to the desired urban form and skyline of the city centre.

Acceptable solutions

1. Buildings achieve the maximum building depth and floor plate sizes as outlined in Table 6.01-3.
2. Buildings with large floor plates are expressed as separate building elements, as shown in Figure 6.01-15.
3. Buildings above street wall height have a maximum building length of 50m.
4. Floor plates are flexible and allow adaption for multiple configurations or uses.

<table>
<thead>
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<th>Maximum building depth and floor plate size</th>
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<tr>
<td>Building typology</td>
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<tr>
<td>Campus style commercial building</td>
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<tr>
<td>Commercial tower</td>
</tr>
<tr>
<td>Residential tower</td>
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</tbody>
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Table 6.01-3: Maximum building depth and floor plate size

Performance criteria

A4.2. Buildings achieve good internal amenity with minimal artificial heating, cooling and lighting.

Acceptable solutions

1. Workspaces in office buildings achieve adequate natural light. Design solutions include windows, atria, courtyards or light wells and by locating workspaces within 10-12m from a window or daylight source.
2. 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.

**A5. Building exteriors**

The design of building exteriors create visual interest to the streetscape and unify developments of different styles and lot widths. Detailed architectural treatments, materials, finishes and colour have the potential to reference the history of the precinct and shape the future character of the area.

**Performance criteria**

A5.1. Building exteriors feature high quality design with robust materials and finishes.

**Acceptable solutions**

1. Materials and finishes complement the character of the precinct.
2. 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.
3. An exterior material and finishes sample board and schedule shall be submitted with development application to show the quality of the materials proposed.

**Performance criteria**

A5.2. Building exteriors make a positive contribution to the streetscape and public domain.

**Acceptable solutions**

1. Buildings are articulated to differentiate between the base, middle and top.
2. Visually prominent parts of buildings such as balconies, overhangs, awnings, and roof tops are of high design quality.
3. 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.
4. Facades do not incorporate large expanses of a single material, including reflective glass.
Performance criteria
A5.3. Building exteriors are designed to ensure a positive contribution to streets and public spaces.

Acceptable solutions
1. Building exteriors clearly define the adjoining streets, street corners and public spaces, designed with safety in mind and easy to navigate for pedestrians.
2. Where development exposes a blank wall a visually interesting treatment is applied to the exposed wall.
3. Balconies and terraces are provided where buildings overlook parks and squares to contribute to casual surveillance.
4. External building facade lighting is integrated with the design of the building and contributes to the character of the building and surrounding area.

Performance criteria
A5.4. Building exteriors respond to adjoining buildings.

Acceptable solutions
1. Adjoining buildings are considered in terms of:
   (a) appropriate alignment of building line, awnings, parapets, cornice lines and street wall heights
   (b) setbacks above street wall heights
   (c) selection of materials and finishes
   (d) façade proportions including horizontal or vertical emphasis
   (e) detailing of the interface with adjoining buildings.
A6. Heritage buildings

This section applies to the assessment of building or alteration work (including demolition) of heritage items listed in Schedule 5 of the Newcastle LEP 2012 that requires development consent.

Additional guidelines for development within Heritage Conservation Areas are provided in the Newcastle DCP 2012, Heritage Technical Manual, City of Newcastle Heritage Strategy and the Newcastle East Heritage Conservation Area City Character Area contained in Part 02 of this Development Control Plan.

Within the city centre there are numerous heritage items of state and local significance that reflect the city’s history and culture and make it unique. Retaining heritage buildings is an essential element in revitalising Newcastle.

The city centre contains a concentration of heritage items and streetscapes typified by late 19th and early 20th century buildings of between two and six storeys of a consistent scale, form and character. Many of these buildings have architectural emphasis at the skyline in the form of tower elements and parapet detail. The rich architectural detail of many heritage items is a distinctive characteristic of the Newcastle city centre.

Performance criteria

A6.1. Development conserves and enhances the cultural significance of heritage items.

Acceptable solutions

1. A heritage management report, prepared by a suitably qualified heritage specialist, ensures the proposal achieves this performance criteria.
2. New development is consistent with the strategic actions of the City of Newcastle Heritage Strategy and the principles of the Newcastle Heritage Policy 2013.
3. New development enhances the character and heritage significance of heritage items, heritage conservation areas, archaeological sites or places of Aboriginal heritage significance.
4. Views and sight lines to heritage items and places of historic and aesthetic significance are maintained and enhanced, including views of the Christ Church Cathedral, T&G Building, Newcastle Courthouse and former Post Office.
Performance criteria

A6.2. Infill development conserves and enhances the cultural significance of heritage items and their settings.

Acceptable solutions

1. Design infill development to respond to the scale, materials and massing of adjoining heritage items. Design solutions include:

(a) aligning elements such as eaves lines, cornices and parapets

(b) responding to scale proportion, pattern, form or rhythm of existing elements such as the structural grid

(c) complementary colours, materials and finishes.

2. Infill development responds to heritage items, historic streetscapes, contributory buildings and the public domain using best practice methods, design philosophies and approaches.

3. Archaeologically excavate and expose the item, and if possible, retain item in situ for permanent public display, allowing for sufficient set back to allow the item to be interpreted by the public. Where items cannot be retained in-situ ensure that the archival recording of the item is of sufficient standard that it can be used for interpretative purposes.

4. Prepare content which communicates and promotes the understanding of the historical context of the archaeological item and allow for content to be provided on an appropriate physical or digital platform.

Image 6.01-27 Combining contemporary infill with heritage buildings creates an interesting relationship between old and new.

Image 6.01-28 The wharf building at Walsh Bay in Sydney is an example of successful adaptive reuse of heritage items.

Image 6.01-29: This historic marine building has been transformed into the Honeysuckle brewery, a popular destination on the waterfront.
Performance criteria

A6.3. Alteration and additions respond appropriately to heritage fabric and the items cultural significance.

Acceptable solutions

1. New building work and uses encourage adaption that has minimal impacts and is low maintenance.

2. Internal and external alterations and additions are designed as a contemporary layer that is readily identifiable from the existing building, responding to but not mimicking its forms of architectural details. Design solutions include separating new work from old by:
   (a) incorporating generous setbacks between existing and new fabric
   (b) glazed voids between new additions and the existing building
   (c) using shadow lines and gaps between old and new work
   (d) using lighting, materials and finishes that enhance and reveal aspects of the heritage item.

3. Employ innovative design strategies to deal with existing physical aspects of heritage buildings that may not be ideal for the proposed new use. Design solutions may include:
   (a) introducing generously sized voids to improve access to natural light and ventilation when building depth is greater than recommended.
   (b) facilitate sunlight access in heritage items by using the full depth of rooms and introducing skylights and clerestory windows where ceiling heights are high.
   (c) expose services, wall and ceiling framing, particularly in public areas and foyers, to reveal the significant internal fabric of heritage items.
   (d) exposing, re-using and interpreting the fabric of existing interiors.

Performance criteria

A6.4. New building elements support future evolution of the heritage item

Acceptable solutions

1. Alterations are reversible and easily removed.
2. Primary and significant fabric is retained including structure.
3. New work is physically set-off the existing fabric.
4. Alterations and additions allow the ongoing adaptation of the heritage item in the future.
Performance criteria

A6.5. Employ interpretation treatments when altering, adapting or adding to a heritage item.

Acceptable solutions

1. Expose the fabric of heritage items by removing later additions that obscure and detract from heritage fabric.
2. Incorporate contemporary insertions in the building in a manner that allows the building layers to be readily identifiable and appreciated.
3. Provide interpretive treatments. Design solutions include:
   (a) displays of artefacts and objects associated with the heritage item in foyers and public areas.
   (b) public art that references the cultural significance of the heritage item.

Performance criteria

A6.6. Encourage new uses for heritage buildings.

Acceptable solutions

1. Employ innovative design strategies to enable heritage items and contributory buildings to accommodate new uses. Design solutions may include new building elements/additions that expand the existing envelope of the heritage building while still respecting and minimising impact on cultural significance.
2. Use innovative approaches to provide car parking where the provision of a basement or other onsite car parking is not possible. Design solutions include:
   (a) allowing heritage building to provide less car parking than is normally required for that land use, or no car parking where not physically possible
   (b) using car share schemes
   (c) sharing space within existing nearby car parking structures

Alternative solutions

Key development controls or standards may need to be varied for adaptive re-use residential projects to facilitate appropriate heritage responses and development viability.

Standards and controls that may need to be varied relate to:

• building and room depths
• building separation
• visual privacy
• deep soil requirements
• car parking requirements
• common circulation in apartment buildings
A7. Awnings

Awnings increase the usability and amenity of public footpaths by protecting pedestrians from sun and rain. They encourage pedestrian activity along streets and in conjunction with active edges, such as retail frontages, support and enhance the vitality of the local area. Awnings, like building entries, provide a public presence and interface within the public domain and contribute to the identity of a development.

Performance criteria

A7.1. Awnings provide shelter for public streets where most pedestrian activity occurs.

Acceptable solutions

1. Continuous street frontage awnings or weather protection to entrances are provided for all new developments in areas requiring an active frontage on Figure 6.01-25 (B3 Active street frontages).
2. Awnings are continuous to ensure pedestrian amenity.

Performance criteria

A7.2. Address the streetscape by providing a consistent street frontage in the City Centre.

Acceptable solutions

1. Awnings are generally flat or near flat and similar to the prevailing awning of each particular streetscape and in keeping with the design of the building.
2. Awnings that break the continuity of the edge fascia with strongly geometrical forms such as triangular or barrel vaulted shapes are avoided.
3. First floor verandahs are permitted in the East End and Newcastle East Character Areas where they are designed to be sympathetic with the overall form, proportion and division of bays of the buildings to which they are attached.
4. Awnings attached to residential terraces are designed in a manner that responds to the division of buildings into vertical bays.
A8. Design of parking structures

On-site parking includes underground (basement), surface (at-grade) and above ground parking, including parking stations. Underground and semi-underground parking minimises the visual impact of car parks and is an efficient use of the site, which creates the opportunity to increase communal and private open space.

High water table and mine subsidence and the impact of these on development feasibility means that above ground car parking structures are often the only way to accommodate on-site parking in Newcastle. A well designed car parking structure is an opportunity to introduce innovative design to the city, whether it is a new build, freestanding, retrofit or part of an integrated mixed use development.

Parts of Newcastle city centre are flood prone. In these areas, if basement car parking is provided, it should be designed to minimise the potential for inundation during a flood event.

Note: Traffic, parking and access controls for the city centre are covered by Newcastle DCP 2012 Section 7.03. This section contains additional provisions for managing the visual impact of car parking in the city centre.

Performance criteria

A8.1. At-grade or above-ground parking structures are well designed.

Acceptable solutions

1. Proposed at-grade or above-ground parking structures whether freestanding or part of larger developments in the city centre are to be reviewed and endorsed by Council’s Urban Design Consultative Group prior to be lodged for development consent as:

(a) having fulfilled the requirements of Newcastle DCP 2012 Section 7.03.04 Clause B Parking areas and structures

(b) being well designed and well integrated with the streetscape and ground plane of the particular site and minimise the visual impact of parking structures

(c) Consultative Group confirms that development meets the performance criteria.

Performance criteria

A8.2. Minimise the visual impact of at grade or above-ground parking structures.
**Acceptable solutions**

1. All parking is provided within the building footprint either within basements or well integrated into the building’s design using materials and architectural façade treatments that are common to the rest of the development.

2. Where on-site parking cannot be provided within the building footprint it is located to the side or rear and not visible from the primary street frontage.

3. Access to above ground car parking is located in side or rear streets or lanes.

4. At-grade or above-ground car parking is screened from view from public spaces. Design solutions include:
   - (a) green walls and roofs
   - (b) solar panels incorporated into screens and awnings over car parking
   - (c) architecturally designed façade treatments that incorporate artworks
   - (d) using car park roof tops for community facilities such as tennis courts
   - (e) sleeved by active and/or other uses as per Figure 6.01-16 and Figure 6.01-17.

**Performance criteria**

A8.3. Basement car parks are designed to provide protection against flooding.

**Acceptable solutions**

1. The design of entry ramps, ventilation points and pedestrian exits prevents water entering the basement until the last possible moment in a flood event, as shown in Figure 6.01-18. Design solutions include warning signage of the hazard and the route to safe refuge affixed in prominent locations.

![Figure 6.01-16: Diagram showing sleeved car parking](image-url)
**Figure 6.01-17: Diagram showing screened car parking**

**Figure 6.01-18 Basement ramp design to minimise inundation**
A9. Landscaping

Performance Criteria

A9.1 New development incorporates landscaping and communal open space that respects the desired character of the streetscape, adjoining land and public spaces.

Acceptable solutions

1. Landscaping and communal open space is provided having regard to the desired streetscape character, building setbacks and relationship to public open space.

2. Landscaping on upper levels and roof tops through the use of roof and wall gardens is encouraged in compliance with section 7.02.07 Green walls and roof space.

3. Private open space areas which adjoin public open space complement the landscape character of the public open space.

4. Residential buildings in the city centre do not require the provision of a deep soil zone.
B. Public domain

B1. Access network

Streets and lanes provide pedestrian and vehicle connections through the city at all hours. The structure of the access network determines how permeable movement is through the city. Pedestrian activity can be encouraged by developing a fine-grain, connected and legible street and lane network that integrates pedestrians, cycling and public transport.

The promotion of active transport (walking and cycling) increases activity in the city centre by increasing the opportunities for people to move around. More activity equates to a higher retail spend. Active transport promotes well-being and reduces the environmental impacts of congestion. It is critical that streets and bike networks are safe, attractive and well connected to promote active transport.

Performance criteria

B1.1 Streets prioritise pedestrian, cycling and public transport users to support sustainable travel behaviour.

Acceptable solutions

1. 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.

2. Sites with a street frontage 100m or greater incorporate additional pedestrian connections to improve access and permeability.

3. New pedestrian connections are within comfortable walking distance to public transport.

4. Streets and lanes are connected to encourage pedestrian use.

5. Way finding signage is incorporated and clearly defined.
Figure 6.01-19: Network Access Map
Performance criteria
B1.2 Lanes, through-site links and pedestrian paths are retained, safe and enhanced to promote access and public use.

Acceptable solutions
1. Retain existing laneways
2. New streets, lanes, through-site links and pedestrian paths are provided as shown in Figure 6.01-19 and designed in accordance with the City Centre Public Domain Technical Manual.
3. Lanes and through-site links maintain clear sight lines from each end.
4. Dead-ends or cul-de-sacs are avoided. Where they exist they are extended to the next street, where possible. Where unavoidable, way finding signage should be provided.
5. Pedestrian bridges are avoided over public spaces, including lanes.
6. Development adjacent to a lane or pedestrian path includes:
   (a) active uses at the ground level
   (b) appropriate lighting
   (c) access for service vehicles if necessary.
7. Streets, lanes and footpaths include lighting and illumination in accordance with the requirements of the City Centre Technical Manual.
8. Blank walls and solid fencing that inhibit natural surveillance and encourages graffiti should be avoided.

Performance criteria
B1.3 New development improves permeability between Civic Lane and Hunter Street through the provision of a new through-site link which is safe, useable and attractive.

Acceptable solutions
1. An additional through-site or mid-block link is provided from Hunter Street to Civic Lane where it can align with existing pedestrian and vehicular access ways, or where it can provide connections to pedestrian and cycle networks, public open space and public facilities. The general location of the preferred link is shown in Figure 6.01-19.

Performance criteria
B1.4 Street and block network is permeable and accessible to promote pedestrian use.

Acceptable solutions
1. A permeable pedestrian network from the city centre to the foreshore is provided as shown in Figure 6.01-19.
2. Through-site connections on privately owned land:
   - Have a public character, are easily identified by users, safe, well lit, highly accessible and have a pleasant ambience;
   - Have a minimum width of 5m with no obstructions;
   - Have buildings which address the frontage and/or contain active uses to provide opportunities for natural surveillance.
   - Have clear and direct through-ways; Are open to the sky and publicly accessible at all times;
   - Are clearly distinguished from vehicle access ways;
   - Align with breaks between buildings so that view corridors are extended and there is less sense of enclosure;
   - Do not contain structures such as electricity substations, carpark exhaust vents, swimming pools etc.);
   - Incorporate signage at street entries indicating public accessibility and the street to which the through-block connections ends; and
   - Are designed in accordance with the Crime Prevention Through Environmental Design principles.

3. Residential developments with a frontage to a through site link incorporate windows, doors and verandahs facing the through-site link at ground level.

4. Arcades in retail and commercial developments:
   (a) Are a minimum width of 3m; and
   (b) Include ground level active uses; and
   (c) Have access to natural light, and
   (d) Provide public access during business hours; and
   (e) Have clear connections to streets and lanes with a direct line of sight between entrances.

5. Pedestrian crossings are located to enable a direct line of travel for pedestrians.

6. Pedestrian-only public lanes are designed in accordance with the City Centre Technical Manual.
**Performance criteria**

B1.5 Public transport facilities are integrated into the access network.

**Acceptable solutions**

1. Pedestrian access to public transport stops is convenient, safe and accessible.
2. Light rail and bus stop locations are coordinated to enable convenient mode change, i.e. stops are located within walking distance from each other.
3. Cycling routes and cycle parking are coordinated and integrated with the location of public transport stops to enable convenient mode change.
4. The design of public transport facilities has regard to Crime Prevention through Environmental Design Principles.

**Performance criteria**

B1.6 Cycle routes are safe, connected and well-designed.

**Acceptable solutions**

1. Separated cycle ways are provided on Hunter Street as shown in Figure 6.01-19 and designed in accordance with the City Centre Technical Manual.
2. Cycle ways are connected into the network indicated in the City of Newcastle Cycling Strategy and accessible to public transport stops.
3. Safety is maximised through active street frontages. Buildings that adjoin pedestrian and cycle paths are designed to address the path and provide passive surveillance opportunities.
4. Signage should be provided along cycle routes identifying key destinations, transport stops, bicycle parking, travel times and distances.
5. Commercial development includes end of trip cycling infrastructure. Design solutions include:
   (a) secure bike parking
   (b) shower and change room facilities.
B2. Views and vistas

Preserving significant views around the city is critical to place-making, wayfinding and for retaining the unique character of Newcastle. Significant views include views from public places towards specific landmarks, heritage items or areas of natural beauty. The most important views in Newcastle tend to be along streets leading to the water or landmark buildings, including Christ Church Cathedral and Nobby’s Head.

With the redevelopment of the former rail corridor lands, key views and vistas are to be established and will create a visual connection and link the city to the foreshore.

Performance criteria

B2.1 Public views and sight lines to key public spaces, the waterfront, prominent heritage items and landmarks are protected.

Acceptable solutions

1. New development protects the views nominated in Figure 6.01-23.
2. New development in the vicinity of views to Christ Church Cathedral nominated on Figure 6.01-23 must ensure that vistas of the Cathedral’s tower, roof-scape and pinnacles of the buttresses are preserved.
3. Open space and breaks in the built form align with existing streets and view corridors as identified in Figure 6.01-23.
4. A visual impact assessment accompanies the application and confirms that this performance criteria has been met.
Figure 6.01-23: Views and Vistas Map
**Performance criteria**

B2.2 New development achieves equitable view sharing from adjacent development.

**Acceptable solutions**

1. Align new development to maximise and frame view corridors between buildings, taking into account topography, vegetation and surrounding development.

2. Where there is potential impacts on views an assessment of the following principles should be submitted with the application:
   
   (a) the views to be affected
   
   (b) what part of the property the views are obtained
   
   (c) the extent of the impact
   
   (d) the reasonableness of the proposal that is causing the impact.

**Note: Visual Impact Assessments**

A visual impact assessment identifies and analyses the affected views in their existing state, includes photomontages of the view once the proposed development is in place and then assess the impact on that view.
B3. Active Street Frontages

Active street frontages promote an interesting and safe pedestrian environment. Shops, studios, offices, cafes, recreation and community facilities provide the most active street fronts. Residential buildings can contribute positively to the street by providing a clear street address, direct access from the street and outlook over the street.

Figure 6.01-24 Active street frontages plan – amended

Performance criteria

B3.1 In identified activity hubs, ground floor uses add to the liveliness and vitality of the street.

Acceptable solutions

1. Active frontages are a minimum 70% of the primary street frontage. They have transparent glazing to allow unobstructed views from the adjacent footpath to at least a depth of 6m within the building.

2. Active frontages are to be provided in activity nodes:
   (a) in the locations shown in Figure 6.01-24
   (b) on through block links, pedestrian only lanes and arcades
   (c) on all other streets where possible.

3. New development:
   (a) maximises entries or display windows to shops and/or food and drink premises, customer service areas and activities which provide pedestrian interest and interaction.
   (b) minimises fire escapes, service doors, car park entries and plant and equipment hatches and grilles, to the active frontage
   (c) provides elements of visual interest such as display cases, or creative use of materials where fire escapes, service doors and plant and equipment hatches cannot be avoided.
   (d) provides a high standard of finish for shop fronts.
   (e) avoid blank walls that inhibit natural surveillance and encourage graffiti.

4. Street frontages are activated through one or more of the following:
   (a) retail and shop fronts
   (b) cafés or restaurants
   (c) active office uses, visible from the street
   (d) public building or community facilities where activities inside the building are visible from the street
   (e) entries and lobbies
   (f) multiple entries for residential buildings
(g) uses that overlook the street
(h) uses that screen or sleeve car parks to a minimum depth of 6m from the street
(i) avoiding porte cochères

5. Ground levels of buildings in commercial core and mixed zones have a minimum 4m floor to ceiling height on the ground floor to ensure flexibility for a variety of active uses.

6. Foyer and lobby spaces are no more than 20% of the street frontage where active frontages are required as shown in Figure 6.01-24, or no more than 8m of a street frontage elsewhere.

7. The ground floor level is at the same level as the footpath.

8. Shopfronts are enclosed, unless they are food and drink premises.

9. Security grills, where provided, are fitted internally behind the shop front, are fully retractable and at least 50% transparent when closed.

10. Active uses in existing and new laneways are encouraged.
B4. Addressing the street

Addressing the street relates to all development outside the "active frontage areas" shown on Figure 6.01-24 or where a continuous 'active frontage' cannot be achieved.

A positive building address to the street contributes to the safety, amenity and quality of the public domain. The way buildings interface with the public domain also has a direct influence on the urban character of the city. It defines the relationship between the building and the street edge and can determine how accessible and functional a building is. All development adjoining the public domain needs to be well designed, using high quality durable materials.

Performance criteria

B4.1 Buildings positively address streets, footpaths, lanes and other public spaces.

Acceptable solutions

1. Acceptable design solutions include:
   (a) maximise the number of entries onto the street
   (b) ground floor internal uses are visible from the street
   (c) building name and / or street number signage is well designed and easily identifiable
   (d) well lit building entries
   (e) well designed efficient external lighting to non-residential buildings
   (f) building frontages to incorporate Crime Prevention through Environmental Design entries are at the same level as the adjacent footpath on sites not flood affected
   (g) finished floor levels are no greater than 500mm above or below the adjacent footpath or public domain
   (h) finished floor levels are no greater than 1.2m above the adjacent footpath or public domain on sites with a cross fall of greater than 1 in 10
   (i) high quality finishes and public art that is visible from the public domain
   (j) opportunities for direct surveillance from the building to the adjacent street
   (k) ground floor residential uses can be elevated up to 1.0m above ground level for privacy

Image 6.01-49: Shopfront and apartments overlooking the street to add to the urban character of the city and contribute to the quality of the public domain.

Image 6.01-50: Ground floor residential elevated up to 1m above the footpath with semi-transparent screening.
Performance criteria

B4.2 Ground levels are designed to mitigate flood risk while ensuring accessibility and a positive relationship to the public domain.

Acceptable solutions

1. Equitable access to a building is provided where the lowest level is elevated above the flood planning level.
2. Locate accessibility ramps from the footpath to the lowest level of buildings above the flood planning level so that a positive address to the street and activated frontages are maintained.
B5. Public artwork

Public art is a defining quality of dynamic, interesting and successful cities. More public artworks are needed in private developments and in the public domain. Public art can be integrated with essential infrastructure, such as stormwater treatment and water collection or aboveground car park screening.

**Performance criteria**

B5.1 Significant development incorporates public artwork.

**Acceptable solutions**

1. Public and civic buildings, development on key sites and development over 45m in height are to allocate 1% of the capital cost of development towards public artwork for development.
2. Council is consulted on the location and proposal for public art.

**Performance criteria**

B5.2 Artworks in new buildings are to be located so they can be appreciated from streets and public spaces

**Acceptable solutions**

1. Design solutions include:
   (a) locating artworks in a public foyer so that they are visible from the street
   (b) integrating public artwork into the design of the building such as its façade or roof features
   (c) integrating public artworks with the delivery of essential open space infrastructure such as stormwater treatment or rainwater collection.

**Performance criteria**

B5.3 Public artworks are used to interpret heritage components or recognise former uses of large development sites

**Acceptable solutions**

1. Work with a heritage consultant and/or a public artist to develop innovative ways to interpret heritage using public art.
B6. Sun access to public spaces

Good sun access is a key contributor to the amenity of public spaces, particularly during winter. Sun access in public spaces is becoming more important as more people move into apartments in the city centre. Good sun access ensures that public spaces such as squares and parks are inviting and well utilised. This section should be read in conjunction with section A1 Street wall heights and Part 3 Key precincts (where applicable).

**Performance criteria**

B6.1 Reasonable sunlight access is provided to new and existing significant public spaces.

**Acceptable solutions**

1. Sunlight access is provided to significant public spaces for at least 2 hours during mid-winter between 9am and 3pm, demonstrated by shadow diagrams. Significant public spaces in the city centre include:

   (a) Civic Park
   (b) Civic Link
   (c) Darby Plaza
   (d) Wheeler Place
   (e) Birdwood Park
   (f) Little Birdwood Park
   (g) Cathedral Park
   (h) Pacific Park
   (i) National Park
   (j) Christie Place
   (k) Fletcher Park
   (l) Church Walk Park.

Note: Shadow diagrams submitted with the development application are to indicate the existing condition and proposed shadows at each hour between 9am and 3pm on 21 June. Shadow diagrams are not to include vegetation. If required, the consent authority may require additional detail to assess the overshadowing impact.
B7. Infrastructure

Performance Criteria

B7.1 Stormwater, water and sewerage infrastructure is integrated into each site and does not create negative off-site impacts.

Acceptable Solutions

1. Drainage, overland flow paths and infrastructure easements are generally as shown in Figure 6.01.25
2. Stormwater management facilities comply with Section 7.06 Stormwater of this DCP.
3. New development has water and sewer links into the existing network with suitable capacity.

B8. Site Amalgamation

To prevent the isolation and fragmentation of former rail corridor land, sites between Worth Place and Darby Plaza should conform to the amalgamations shown in the Figure 6.01-25.

Performance Criteria

B8.1 Surplus rail corridor land is amalgamated with adjoining land to create useable sites that are consistent with the desired character of the area.

Acceptable Solutions

1. Former rail corridor lands identified in the Figure 6.01-25 are wholly or partially amalgamated with the adjoining land to the north or to the south.
2. The former rail corridor lands are subdivided by an east/west and/or north/south split, to create an amalgamated lot.
3. Potential amalgamated site 1 shown on Figure 6.01-25 does not mean all sites need to be amalgamated but rather a combination of sites that utilises the former rail land effectively.
4. The amalgamation of former rail corridor lands identified in the 'Amalgamated Parcels Map' does not to result in the creation of an isolated lot unless it is demonstrated that:
   (a) The orderly, economic use and development of separate sites can be achieved; and
   (b) The lots are of a suitable size and dimensions to facilitate new development that is consistent with the desired character of the area; and
   (c) The Planning Principles outlined by the NSW Land and Environment Court for redevelopment resulting in isolated sites are satisfied.
Figure 6.01-25: Infrastructure Plan

Proposed indicative location of:
- Red: Sewer
- Orange: Link into existing sewer system
- Blue: Water
- Green: Link into existing water system
- Green: Stormwater drainage network
6.01.04 Key Precincts

A. Overview

Seven key precincts have been identified within the Character areas of Newcastle’s city centre. They are:

- Hunter Street Mall
- Wheeler Place
- Birdwood Park
- Civic Link
- Darby Plaza
- Hunter Street Live-work units
- Newcastle Station and Foreshore Park

These seven key precincts have their own set of objectives and performance criteria designed to achieve specific outcomes related to particular development and public domain opportunities of that precinct. These specific performance criteria and acceptable solutions must be considered in addition to the general controls in this section.

The key precinct guidelines in this section prevail over the more general guidelines in Section 6.01.03 in the event of any inconsistency.
Figure 6.01-27: Character Areas and Key Precincts Map
B. Hunter Street Mall

![Figure 6.01-28: Hunter Street Mall Precinct]

**Existing character**

The Hunter Street Mall precinct contains a mix of uses and building types. In its centre is the former Hunter Street Mall (between Perkins and Newcomen Streets), a shared street for pedestrians and vehicles and is becoming a popular destination for a variety of activities including specialty retail, dining, entertainment, nightlife and events. The precinct is rich in cultural heritage with views of Christ Church Cathedral. Access to the foreshore is currently constrained.

**Future character**

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

**Objectives**

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

**Performance criteria**

B1 Pedestrian permeability and amenity is improved.

**Acceptable solutions**

1. New lanes and through-site links are provided in the locations identified in Figure 6.01-28. They are designed in accordance with the Public Domain section of this Development Guide and the City Centre Technical Manual.
2. New links include:
   
   (a) a continuous pedestrian connection between Newcomen and Perkins Streets mid block between Hunter and King Streets.
(b) a minimum 3m wide pedestrian only link between Newcomen and Laing Streets connected to the Laing Street alignment.

c) a new pedestrian link or arcade between Thorn and Wolfe Street.

d) a pedestrian connection between Morgan and King Street.

Performance criteria

B2 Significant views and protected (refer to section B3).

Acceptable solutions
1. Development between Thorn and Morgan Street provides an opening on the Market Street alignment to preserve views of Christ Church Cathedral.

Performance criteria

B3 Building form integrates with existing heritage character and retains contributory buildings.

Acceptable solutions
1. Street wall heights ensure a minimum two hours of sunlight between 9am and 3pm in mid-winter to the southern side of Hunter Street Mall.
2. Large scale new development is articulated so that large expanses of building form are broken down into smaller elements to relate to the fine grain of the precinct.
3. Retain and adaptively re-use existing character buildings that are not heritage items but contribute to the historic identity of the precinct.

Performance criteria

B4 Hunter Street Mall is a pedestrian and vehicular thoroughfare and a place of activity.

Acceptable solutions
1. Remove existing lightweight and concrete freestanding awnings structures.
2. Define clear pedestrian spaces along the fronts of buildings.
3. Provide a centrally located one way share-way for vehicles with threshold treatments at the entry and exit to Hunter Street Mall between Perkins and Newcomen Streets.
4. Provide limited short stay car parking with priority given to accessible parking spaces.
5. Provide a centrally located space that is relatively clear of obstructions that can be used for special events.
6. Remove the pedestrian bridge along Market Street to promote connections to the waterfront and future light rail stops.
7. Integrate Market Street into the mall using common public domain materials and treatments.
8. Provide additional street trees, new street furniture, new lighting, bike rings and way finding signage.

Performance criteria

B5 Servicing and access is designed to minimise conflicts with pedestrians.
**Acceptable solutions**

1. Hours for service deliveries from Hunter Street Mall are restricted to minimise potential conflicts with other activities.
2. Vehicle access and servicing is located to minimise conflicts with pedestrians.
3. Loading docks and their access points are not located on Hunter Street Mall.

*Figure 6.01-29: Section through the former David Jones building, showing a proposed connection terminated by the view of Victoria Theatre.*
C. Wheeler Place

**Figure 6.01-30: Wheeler Place Key Precinct**

**Existing character**

The Wheeler Place precinct contains the primary administrative and cultural facilities of Newcastle. These facilities reflect Newcastle’s importance as a major regional city and include the City of Newcastle Administration Building, Newcastle Courts Complex, Newcastle Art Gallery, the Newcastle Museum, Civic Theatre and City Hall. The precinct also contains major public open space in the form of Wheeler Place and Civic Park.

**Future character**

The civic importance of the precinct will be reinforced by improving pedestrian access through the precinct and linkages to Newcastle Museum and the foreshore in the north and Darby Street to the south east. Major new education facilities will be provided through the redevelopment of the Civic Arcade site for new faculties for the University of Newcastle.
Objectives

1. Promote Wheeler Place precinct as the civic, administrative, education and cultural heart of Newcastle.
2. Promote a permeable street network and enhance pedestrian connections to Newcastle Museum and the foreshore in the north and Newcastle Art Gallery and Darby Street to the south via Wheeler Place and Civic Park.
3. Promote active frontages to streets and public spaces along the pedestrian route through the precinct.
4. Protect heritage items and contributory buildings.
5. Protect sunlight to Christie Place, Wheeler Place, Civic Park and the southern side of Hunter Street.

Performance criteria

C1 Pedestrian permeability and amenity is improved.

Acceptable solutions

1. New lanes and through-site links are provided as shown in Figure 6.01-30.
2. The pedestrian crossing on Hunter Street linking Wheeler Place and Civic Station Link is enhanced by increasing the width of the crossing.
3. Pedestrian connections between Hunter Street, Civic Station Link and the Newcastle Museum are improved and enhanced. Design solutions include:
   (a) redesign Civic Station forecourt as a pedestrian space that has common fixtures, materials and details to those in Wheeler Place.
   (b) adapt Civic Station so that it addresses the new pedestrian forecourt, providing an activated frontage.
   (c) link the pedestrian route across the rail corridor at Civic Station to pedestrian paths across the forecourt to Newcastle Museum.
4. A new through site-link or arcade from Christie Place to Hunter Street is provided.
5. A new through-site link or arcade is provided from Christie Street to Auckland Street.
6. New development provides an address to Christie Place with active frontages.

**Performance criteria**

C2 Building form integrates with existing heritage character and retains contributory buildings.

**Acceptable solutions**

1. Redevelopment of the former Civic Arcade site on the corner of Hunter and Auckland Street provides (as shown in Figures 6.01-31 and 6.01-32):
   
   (a) a slender tower located near the corner of Hunter and Auckland Streets, no wider than University House (former Nesca House)
   
   (b) ensure the clock tower of City Hall retains its prominence in the precinct
   
   (c) an appropriate curtilage is provided to Civic Theatre
   
   (d) protect sunlight access to Christie Place
   
   (e) a 6m setback to the tower from the rear façade of University House.

2. New buildings and alterations to existing buildings along the rail corridor have double frontages with active frontages to Hunter Street and rear frontages designed to address the rail corridor.

**Performance criteria**

C3 Wheeler Place is designed to support a range of uses and events.

**Acceptable solutions**

1. A light weight stage can be erected to host events in accordance with any adopted public domain plan of Council.

2. Wheeler Place is redesigned to improve pedestrian amenity by increasing shade and providing a water feature, seating and bike rings.

3. Bespoke street furniture, fixtures and public art is provided to distinguish Wheeler Place from other public places in Newcastle city centre and in accordance with any adopted public domain plan of Council.

4. A Water Sensitive Urban Design Strategy is developed for landscaping to sustainability manage stormwater.

5. The quality of public domain treatments is improved, with materials, finishes and fixtures, including bespoke fixtures and public art, selected in accordance with the performance standards and specifications of the City Centre Technical Manual.

**Performance criteria**

C4 Servicing and access minimises conflicts with pedestrians.
**Acceptable solutions**

1. Service deliveries are not to be made from Hunter Street for development which has access to another street frontage.
2. For development that has no other frontage than Hunter Street, hours for service deliveries are restricted to minimise potential conflicts with other activities.
3. Vehicle access and servicing is located to minimise conflicts with pedestrians.
4. Loading docks and their access points are not permitted on Hunter Street.

*Figure 6.01-31: Section through Christie Place and the University site showing building form and setbacks.*

*Figure 6.01-32: Section through the University site showing building form and setbacks.*
D. Birdwood Park

**Existing character**

The Birdwood Park precinct is the western gateway to Newcastle city centre and currently houses a range of uses including showroom and bulky goods retail, car dealerships and self storage. This precinct contains the major heritage assets, including the former brewery.

Birdwood Park is the primary open space but is currently surrounded by busy roads resulting in sub-standard amenity.

**Future character**

This precinct has the potential to become part of the future central business district of Newcastle. This is due to the location of the new transport interchange in the precinct. There is also a predominance of larger consolidated land holdings and fewer environmental and heritage constraints combined with generous floor space and height allowances. Improvements to streetscapes and Birdwood Park will raise the quality of the public domain, while adaptive re-use of the former brewery will enrich built form character in this precinct.
**Objectives**

1. Guide development that contributes to the realisation of a future commercial core.
2. Create a sense of arrival into the city centre from the western approach.
3. Promote active street frontages.
4. Protect heritage items and contributory buildings.
5. Promote a permeable street network in Birdwood Park precinct with well connected easily accessible streets and lanes.
6. Provide new public spaces and improve pedestrian amenity, particularly to Birdwood Park.
7. Improve Birdwood Park with a strong built edge and protecting sunlight access.

![Image 6.01-58: Potential transformation of King Street edge alongside Birdwood Park (IMpressionL Arup, 2012)](image)

**Performance criteria**

D1 Pedestrian permeability and amenity is improved.

**Acceptable solutions**

1. New lanes and through-site links are provided in the locations identified in Figures 6.01-33 and 6.01-34. They are designed and constructed in accordance with the Public Domain section of this Development Guide and the City Centre Technical Manual.
2. The design of the laneway network integrates with the ground floor uses of adjoining buildings and provides opportunities for external activities.

**Performance criteria**

D2 The bulk of building form is managed to promote good amenity for pedestrians and neighbouring buildings and to integrate well with heritage items and contributory buildings.
Acceptable solutions
1. Large scale new development is articulated so that large expanses of building form are broken down into smaller elements to reduce building bulk.
2. Taller buildings are be set back from Hunter Street, to provide a gradual increase in scale from Hunter Street.

Performance criteria
D3 Public domain - promote Birdwood Park as the primary open space asset in the precinct.

Acceptable solutions
1. New development in the precinct ensures that a minimum of 3 hours of sunlight is provided to 50% of Birdwood Park between 9 am and 3pm on 21 June.
2. Reshape King Street, along Birdwood Park, as a shared pedestrian and vehicular street and a place of pedestrian activity by:
   (a) reducing the road carriageway to minimum widths to maximise space on the footpath for pedestrians, landscaping, public art or outdoor dining.
   (b) raising the level of the carriageway and marking the space with indicators to slow drivers and signal arrival into a shared space.
   (c) incorporating other traffic calming measures such as landscaping and low speed limits.
   (d) restricting service vehicle access at certain times of the day to allow for other activities.
3. Public domain works including tree planting, furniture, lighting and materials, is carried out in accordance with the City Centre Technical Manual.

Performance criteria
D4 Servicing and access minimises conflicts with pedestrians.

Acceptable solutions
1. Service deliveries are not to be made from Hunter Street or Stewart Avenue for development which has access to another street frontage.
2. For development that has no other frontage than Hunter Street, hours for service deliveries are restricted to minimise potential conflicts with other activities.
3. Vehicle access and servicing is located to minimise conflicts with pedestrians.
4. Loading docks and their access points are not permitted on Hunter Street.

Figure 6.01-34: Section through the former brewery/regional museum site between Stewart Avenue and Wood Street.
Figure 6.01-35: Section though buildings fronting King Street and Birdwood Park showing 20m solar access plane setback
E. Civic Link

**Existing character**

Civic Link Precinct sits within the Civic Character zone to the north of Hunter Street and is bound by Workshop Way and Merewether Street. The Precinct encompasses the former Civic Station and railway corridor and the Newcastle Museum.

**Future character**

This part of the city is intended to form part of the civic heart of Newcastle and will provide an important link between some of the region’s most important civic and cultural assets, including Civic Park, City Hall, Civic Theatre, Newcastle Museum and the foreshore.

The focus on Civic is to leverage the best value from new investments by creating open space and walking and cycling connections that link Newcastle’s civic buildings to the waterfront and the light rail system.

Creating a new civic focused public space, linking Hunter Street to the museum will provide a direct visual and physical connection from Wheeler Place to the harbour and meet the needs of the incoming populations.

**Objectives**

1. Provide a new public space that links the civic, administrative, education and cultural heart of Newcastle to the foreshore.

2. Guide development surrounding the new Civic Link and along Civic Lane that contributes to the realisation of the area as the civic heart of Newcastle.
Creating a new civic focused public space, linking Hunter Street to the museum will provide a direct visual and physical connection from Wheeler Place to the harbour and meet the needs of the incoming populations.

**Objectives**

1. Provide a new public space that links the civic, administrative, education and cultural heart of Newcastle to the foreshore.
2. Guide development surrounding the new Civic Link and along Civic Lane that contributes to the realisation of the area as the civic heart of Newcastle.
3. Promote a permeable street network and enhance pedestrian connections from Hunter Street to the foreshore.
4. Promote active frontages to streets and public spaces.
5. Respect heritage items and contributory buildings.

**Performance Criteria**

E1. Civic Lane provides an accessible, attractive link between Civic Link/Hunter Street and Wright Lane/Workshop Way. Vehicular and service access to the properties on the northern side of Hunter Street and the new developments between Civic Lane and Wright Lane is from Civic Lane.

**Acceptable solutions**

1. Civic Lane provides vehicular access, including basement carpark access to properties on the northern side of Hunter Street and the new developments between Civic Lane and Wright Lane.
2. Civic lane provides one-way vehicular movement in an east to west direction with an entry via a shared way through Civic Link onto Hunter Street.
3. A minimum 1.2m wide footpath is provided on the southern side of Civic lane.
4. Consolidated access points are provided to building lots along Civic Lane to reduce the dominance of driveways.
5. Pedestrian access along the northern side of Civic Lane is integrated within the building setback of the associated development.

*Figure 6.01-37: Civic Lane*
**Performance criteria**

E2. Pedestrian permeability and amenity is improved by the connection of the Wheeler Place Key Precinct through Honeysuckle to the waterfront.

**Acceptable solutions**

1. New lanes and open pedestrian links are provided in the locations identified in Figure 6.01-36.
2. New or enhanced links include:
   
   (a) Direct pedestrian connection between Hunter Street and Wright Lane / Honeysuckle Drive.
   
   (b) A minimum 4.5m wide pedestrian only link on the northern side of the former railway corridor between Civic Link and Merewether Street.
   
   (c) A minimum 8m wide vehicular accessway adjoining the southern boundary of the former railway corridor accessed from Merewether Street and a pedestrian link adjoining the northern boundary, between Civic Link and Merewether Street.

**Performance Criteria**

E3. Servicing and vehicular access minimises conflicts with pedestrians.

**Acceptable solutions**

1. Service deliveries and garbage collection hours are restricted to minimise potential conflict with pedestrians and other activities within the shared zone of the Civic Link open space.
2. Vehicle access and servicing to the sites adjoining Civic Lane is provided from Civic Lane to minimise conflicts with pedestrians.

**Performance Criteria**

E4. The bulk of building form is managed to achieve good amenity for pedestrians and neighbouring buildings, and to respect and integrate well with nearby heritage items and contributory buildings.

**Acceptable solutions**

1. New development is articulated so that large expanses of building form are broken down into smaller elements.
2. Taller buildings are set back from Civic Link, to provide a gradual increase in scale along the former railway corridor from Civic Link to the east and from Civic Link to the west.

3. Street wall heights ensure a minimum two hours of sunlight between 9am and 3pm in mid-winter to at least 50% of the Civic Link open space.

4. Buildings facing Civic Link include prominent architectural features or design on corners.

5. Buildings with a secondary frontage to a laneway incorporate setbacks that enable ground floor active uses, vehicular access and off-street loading zones. Upper level setbacks enable compliance with the Apartment Design Guide.

6. A reduced setback above the street wall height of 3m may be appropriate within sites bounded by Civic Link and Merewether Street.

Figure 6.01-39: Civic Link Section View Wheeler Place to Newcastle Museum
F. Darby Plaza

Existing character
Darby Street is the main dining centre of Newcastle and offers a mix of shops, cafes and restaurants and night life. At present Darby Street ends at the intersection with Hunter Street.

Future character
Darby Plaza will form a new community focused public space, providing a pedestrian and cycle connection from Hunter Street to the harbour.

Objectives
1. Provide new open space and improve pedestrian amenity.
2. Promote a permeable street network and enhance pedestrian connections from Darby Street to the foreshore.
3. Promote active street frontages.
4. Respect heritage items and contributory buildings.
5. Provide a strong built edge to Darby Plaza and create an integrated space between the public and private land.
**Performance criteria**

F1. Pedestrian permeability and amenity is improved with the capacity to generate safe public movement from Darby Street and Argyle Street to the waterfront.

**Acceptable solutions**

1. Adjacent mixed use development provides active frontages to both Hunter Street and the new Darby Plaza with active ground floor uses and natural surveillance from floors above.
2. Extension of view corridors from the eastern side of Darby Street and Argyle Street improves lines of sight increasing safety and wayfinding.

**Performance criteria**

F2. Darby Plaza supports a range of uses and activities and is edged by mixed use development along the west including active ground floor uses.

**Acceptable solutions**

1. Buildings adjoining Darby Plaza incorporate a ground floor setback from Darby Plaza as shown in Figure 6.01-40, which aligns with the eastern side of Darby Street.
2. Buildings adjoining Darby Plaza are designed to integrate into the public open space.

**Performance criteria**

F3. Servicing and access minimises conflicts with pedestrians.

**Acceptable solutions**

1. Vehicular access and servicing is from Argyle Street via a shared way within Darby Plaza and located so as to minimise and manage potential conflicts with pedestrians.
2. Hours for service delivery are restricted to minimize potential conflicts with pedestrian activities within the plaza.

**Performance criteria**

F4. Significant views are strengthened (refer to Section B2 View and vistas).

**Acceptable solutions**

1. Buildings adjoining Darby Plaza complement the view corridor through Darby Plaza.

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**Figure 6.01-41 Section through Darby Plaza**
G. Hunter Street Live-Work Units

**Figure 6.01-42: Hunter Street Live-Work Units Key Precinct**

**Existing Character**

Hunter Street features some of Newcastle’s best heritage buildings and offers a mix of shops, cafes, restaurants and other local businesses.

The former rail line ran directly to the northern edge of Hunter / Scott Streets between Crown and Newcomen Streets creating a poor and inactive interface. The rail corridor at this location is heavily overshadowed by the existing commercial and residential buildings fronting Wharf Road.

**Future Character**

New mixed use development, greater pedestrian priority and future transport improvements contribute to the potential for Hunter Street / Scott Street to be strengthened as Newcastle’s ‘main street. Infill development is encouraged on the northern side of Hunter Street between the alignments with Crown and Brown Streets to promote activity and improve the pedestrian interface and street edge definition. New built form at this location is sensitively scaled to allow for the maintenance of significant view lines from the adjoining residential apartments to the north. It is envisaged that this site, will be suitable for live-work style units fronting onto Hunter Street with ground floor commercial or office uses.
Objectives
1. Improve the pedestrian interface and street edge definition of Hunter Street.
2. Promote active street frontages.
3. Respect heritage items and contributory buildings.
4. Ensure development responds to and respects the amenity of adjoining residential development.

Performance criteria
G1. Hunter Street is strengthened as Newcastle’s ‘main street.’

Acceptable solutions
1. Active ground floor frontages supporting small office or retail uses are created along Hunter Street.
2. Built form is scaled to maintain a comfortable, human scaled streetscape.
3. Pedestrian amenity and walkability is enhanced by the provision of wide footpaths.
4. Windows and balconies overlook Hunter Street increasing natural surveillance and sense of safety.

Performance criteria
G2. The built form is appropriate to the land size and dimensions, provides streetscape definition and activation, and respects views from adjoining residential apartments.

Acceptable solutions
1. New development in this section of Hunter Street:
   (a) Incorporates active uses at ground level,
   (b) Provides individual pedestrian entries off Hunter Street,
   (c) Is of good quality contemporary design that complements nearby terrace development; and
   (d) Avoids monotonous design by incorporating articulation and a variety of materials and colours
2. New development respects views from the adjoining residential apartments located to the north of the former rail corridor, through the use of appropriate setbacks, building heights, roof form and building articulation.

Note: The NSW Land and Environment Court Planning Principle describes the process for assessing view impacts and will need to be considered in the design of the development.

3. Continuous street frontage awnings do not need to be provided in areas requiring an active frontage on Figure 6.01-42.

Alternative Solutions
• Alternate forms of development that are compatible with the narrow site width and surrounding development may be considered on the portion of the site east of Crown Street.
**Performance criteria**

G3. Vehicular access and servicing minimises conflicts with pedestrians

**Acceptable solutions**

1. Vehicle access and car parking is provided via a rear laneway from Argyle Street.
2. A 10m Vehicle turning head is provided at the eastern end of the rear access lane to allow vehicles to exit the site to Argyle Street.

**Alternative Solutions**

- The laneway may be extended north at the eastern end to link with Wharf Road.

**Performance Criteria**

G4. Live Work Units provide adequate parking accessed from the laneway.

**Acceptable Solutions**

1. Required car parking may be provided within the access laneway, rather than individual lots.
2. Variation to car parking rates may be considered in accordance with Section 7.03 Traffic, Parking and Access.

**Performance Criteria**

G5. New development respects and maintains heritage items - AA Company Abutment and Bridge

**Acceptable Solutions**

1. New development incorporates sufficient setbacks from the AA Company Bridge abutment so that it is retained in situ for permanent public display.
2. A physical interpretation is prepared which communicates and promotes the understanding of the historical context of the AA Company Bridge Abutment and its relationship to the early railways. The interpretation allows for content to be provided on an appropriate physical or digital platform.

**Alternative Solutions**

- If the bridge abutment cannot be retained in situ, options for its removal and re-installation where it can be kept on public display are to be developed in consultation with Newcastle City Council.

![Figure 6.01-43: Section through Hunter Street Live Work Units](image-url)
H. Newcastle Station and Foreshore Park

Newcastle Railway Station, built in 1859, has State heritage significance due to its historical associations with the Great Northern Railway as its second terminus.

The Station site is central to Foreshore Park, located along Wharf Road, which provides vast open space for activities, recreation and community uses.

Future character

The Newcastle Railway Station forms a key position in the development of the urban environment in this part of the city, including views of the building itself and key built forms in its surrounds. The space between the platforms has historically been naturally lit and this should be considered in the redevelopment, as a way of retaining the history of the item as a station.

The future character of Newcastle Station and Foreshore Park Key Precinct will fully respect and celebrate the heritage integrity of the Station, and could accommodate a range of different activities including community, tourism, retail, leisure and commercial uses.

Newcastle Railway Station is proposed to be repurposed into a hallmark destination, retaining and adapting the heritage character with a mix of uses and providing a focal point for the East End. It will accommodate enterprises and activities that attract visitors, activate the area and stimulate the economy.

Figure 6.01-44: Newcastle Station and Foreshore Park

Existing character

Newcastle Railway Station, built in 1859, has State heritage significance due to its historical associations with the Great Northern Railway as its second terminus.

The Station site is central to Foreshore Park, located along Wharf Road, which provides vast open space for activities, recreation and community uses.
The future use of the station will be supported and enhanced by the expansion of the Foreshore Park to the west of the station. Development adjoining this area will complement and support the use of this area as an event space.

**Objectives**

1. Provide a new focal point for the community in the East End.
2. Promote a permeable street network and enhance pedestrian connections from Hunter Street to the foreshore.
3. Promote active frontages to streets and public spaces.
4. Respect heritage items and contributory buildings.

**Performance Criteria**

H1. Newcastle Station and Foreshore Park is a regional tourist and leisure destination for both residents and tourists.

**Acceptable Solutions**

1. Improve pedestrian permeability and amenity by providing a link from Scott Street between the significant Station buildings to the foreshore.
2. Protect the heritage and history of the Newcastle Station through its adaptive re-use.
3. Create a public open space area that is safe and well-utilised.
4. Promote the Foreshore Park as a regional open space asset.
5. The built form and land use considers noise impacts on nearby residential uses.
6. The built form of the Newcastle Station buildings provides frontages to Scott Street and to the north facing Foreshore Park.
7. View corridors identified in Figure 6.01-23 are retained.

**Performance Criteria**

H2. The Newcastle Railway Station group of buildings integrate with the public domain and encourage pedestrian access and permeability.

**Acceptable Solutions**

1. The use of the site, including the adaptive reuse of heritage items maintains the human scale of the buildings to the street and public spaces.
2. Pedestrian movement networks are developed around and through the heritage buildings.
3. Heritage items located adjacent to public open space, integrate with the public domain.
4. Development of the Newcastle Railway Station site:
   (a) Maintains views of Newcastle Station along Scott Street, particularly the main building and the Western Wing.
   (b) Maintains the view corridor from the harbour front to the roof elements on the main building and Western wing from a pedestrian level.
   (c) Ensure that the general bulk of any new development on the site does not compete with, impede or detract from the current tiered elevation and depth created by the built form in its current configuration.
(d) Maintains the view corridor from the west to Customs house. The bulk of new structures does not obscure views to and from the clock element on Customs house, beyond what has already been established.

(e) Ensures that the form, massing, scale and bulk of new development are complementary to the existing built form of the Newcastle Railway Station.
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CCL 09/05/17
EXHIBITION OF DRAFT AMENDMENT TO SECTION 6.01 NEWCASTLE CITY CENTRE
OF NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

Attachment B: Urban Design Consultative Group report 15 March 2017

DISTRIBUTED UNDER SEPARATE COVER
URBAN DESIGN CONSULTATIVE GROUP MEETING

ITEM No. 2

Date of Panel Assessment: 15th March 2017
Address of Project: Rail corridor
Name of Project (if applicable): N/A
DA Number of Pre-DA?: Draft DCP guidelines for Rail Corridor land
No. of Buildings: N.A.
No. of Units: N.A.
Declaration of Conflict of Interest: Prof. Michael Ostwald
Attendees: Applicant
Steve Aebi – Urban Growth
Nicola Robinson – Urban Growth
David Tickle – Hassell
Jenny Rudolph – Elton Consulting
Council
Steven Masia

Background Summary
The rail corridor land is presently subject to a Planning Proposal, and a draft LEP covering zoning, height and FSR controls which is currently on public exhibition. In parallel Section 6.01 of the Newcastle City Centre of Newcastle DCP 2012 is under review and the advice of the Panel is sought in relation to proposed amendments in the draft of that document. These comprise:-

- Insertion of extensive new wording relating to the rail corridor land

- Accompanying diagrams for each of 4 ‘Key Precincts’, and in addition 7 separate diagrams covering:-
  - Street wall height
  - Building setbacks
  - Access network
The Panel has twice previously reviewed the issues and the preliminary submissions from Urban Growth regarding the Rail Corridor, on 11th July and 17th August 2016. The proposed controls have responded positively to most of the Panel’s comments, but a number remain of concern.

The draft controls do not address the important related issues of landscape and urban design of the Hunter Street frontage when (and if) the street in future accommodates the proposed light rail. Continuity of street tree planting in particular will be critical.

The amended wording in the written document covers broad general principles and is considered to be satisfactory. Similarly the 7 diagrams covering general issues are supported. The following comments address only the diagrams covering the 4 ‘Key Precincts’.

**Key Precincts**
The report of the Panel for the August meeting in relation to the 5 main ‘Open Spaces’ is reiterated below in italics, with comments on the proposed amendments following:-

- **01 Civic Link**

  The Group welcomed the additional access and public space connecting the Civic buildings with the Museum and the foreshore. The detailed landscape plan will hopefully explore further opportunities beyond the indicative design, which appears somewhat fractured. The Group was of the view that only the elements of the Civic station that relate to its heritage listing should be retained – as the space is relatively tight and the building tends to visually fill it, reducing the potential for visible through-site links.

  The proposed open space is potentially a major new asset, but the indicative plan shows it being enclosed by the ends of a disparate array of buildings to the east and west, and open to the constant traffic in Hunter Street. This space requires a detailed urban design study to demonstrate how it can be contained and developed into a vital new place. ‘Parcel 4’ and the adjoining two parcels in public ownership should not be disposed of until there are clear controls in place to ensure that the outcome will achieve excellence.

  In terms of the amenity of this space, there is concern that the proposed FSR (3:1) and height-limits (30m) for Parcel 3 (immediately to the west of the Civic link area) will create overshadowing and amenity problems during the year and lead to a scale-disjunction at the western edge of the public space. A lower height limit (24m) for this parcel, combined with a street wall control (say four storeys, then set back to any higher elements) should limit such problems.
COMMENT
The DCP diagram now includes a 16m ‘street wall height’ for the rail corridor land and Hunter Street sites on the western and eastern sides of the new public space. The LEP height control for the sites is 24 m. for sites to the west and 18m. for sites to the east; however the height for the site to the immediate north on the opposite side of Wright Lane remains at 30m. This continues to pose issues in relation to overshadowing and consistency of building forms. These may be solvable depending upon the extent of the setbacks and detailed design of development on those sites.

Re A2 Building Setbacks A2.01 “Acceptable Solutions (e) A 9m separation should be provided between habitable and non-habitable development on either side of Civic Lane.”

Given that it is proposed to widen the roadway to 7m, and to have at least minimal footpaths or pedestrian refuge areas in this shared roadway, this minimal separation would appear to be both insufficient and of little benefit. Furthermore, if residential accommodation (existing or proposed) forms part of the development under reference, the separations should reflect the minimum separation distances outlined in the Apartment Design Guide, as required by SEPP65.

There are a variety of unrelated sites bordering what has the potential to be an outstanding new major public space. The draft DCP controls relate only to certain basic constraints, and do not constitute urban design. The potential of the ‘Civic Link’ site will only be realised if there is a very clear design concept and strategy for implementation. This must include basic building forms, pedestrian movement, landscape paving and planting, and elements such as sculpture, water features etc’

It is recommended that:-
. The draft DCP controls be adopted for interim guidance
. ADG recommendations must take precedence over DCP controls.
. Before any development bordering the site proceeds, detailed urban design recommendations for the site be developed. The site is so significant that it could well justify the holding of a design competition.

• 02 Darby Plaza  (‘Key Precinct 5’ in draft DCP)  
  Whilst it is unlikely that a direct view to the harbour from Darby Street will be obtained through this link, negotiations with the landholder at the eastern end of Centenary Road should aim at opening this space to expose a view from Darby Street of the heritage listed “Argyle House”. The UrbanGrowth (August 17 presentation) response to the UDCG acknowledges that this may be desirable.

COMMENT
The DCP diagram proposes a 22m street-wall height for development on the western Hunter-Argyle Streets corner, where the draft LEP height control is 24m. (Category S), with the opposite site to the east being 14m. (Category N). The open space is proposed to be in part ‘Private Open Space’ and in part ‘Shared Zone’. An “Important View Corridor” is identified, and a minimum 4m. setback on the western site is proposed. These constraints collectively appear reasonable, although the 2m. difference between the LEP and DCP street-wall height is queried, and it is also critical as recommended in the
previous report for development on the adjacent Centenary Road site to be integrated. If this can be achieved it appears feasible that a perhaps an unusual but quirky and attractive outcome could result.

It is recommended that:-

- The draft DCP controls be accepted for interim guidance
- Before any development on the sites fronting the proposed new ‘Darby Plaza’ is considered in detail an integrated design for the building forms addressing the ‘Plaza’ be prepared in consultation with all affected landholders.

- **03 Hunter Street Revitalisation (opposite the northern ends of Crown and Brown Streets)** (‘Key Precinct 6 – Hunter Street Live-Work Units’ in draft DCP)

  The aim of continuing a strong landscaped theme from the open green spaces to the east, westwards into and along Hunter Street was strongly supported by the Group. This element was considered crucial to achieving a cohesive urban outcome.

  The narrowness of the strip of land east of Darby Street (Parcel 11) that will be available from the railway closure, was such that any residential use above small ground-floor retail spaces was likely to offer very poor amenity because of lack of aspect or solar access. The site(s) also offer difficult access for residential/retail uses. The existing apartment building and office blocks to the north of the corridor that are accessed from Wharf Road, look directly onto the rail corridor site at minimal setback.

  The sketch sections and plans provided by Urban Growth (August 17 presentation) to test the feasibility of shop-top housing on Parcel 11 confirm that such an approach may be viable (in the form of ground floor commercial with two storey walk-up apartments above), but the amenity of these apartments is likely to be compromised by multiple site factors. Furthermore, this location is not ideal for housing of any type, although a hotel may be more appropriate. The UDCG also raised the possibility that Parcel 11 might be able to accommodate a narrow carpark, but sketch plans provided by Urban Growth suggest that there is insufficient site width for a double-loaded carpark, potentially undermining its feasibility.

  Given the problems inherent in using Parcel 11, it may be better to investigate an alternative, landscape and pedestrian focused urban space, to visually continue the open green spaces along this length of corridor, towards the east.

**COMMENT**

The August 2016 comments remain relevant, and this site remains very challenging. On balance the Panel remains of the view that it is not attractive for any residential uses, and that a landscaped/pedestrian space would be preferable. A development of this option for consideration is to also utilize and partly activate the space with facilities such as ball courts/practice nets which require only limited width, screening these from the road with planting. Street tree planting will be particularly critical along this unappealing strip of
Hunter Street. The option of at least some parking on the site should not be dismissed, but the scheme would also allow some parallel parking or angle parking off Hunter Street – as current parking will be lost when the light rail is installed.

The draft DCP does not include height guidance but the draft LEP proposes a height of 14 m. with a small part of the site at the north end being 21 m. The related FSR controls are 1.5:1 and 2.5:1 at the northern end. Both LEP controls are presumably on the basis that the site could accommodate ‘live-work’ units having acceptable amenity. This is considered to be questionable.

It is recommended that:-

1. The draft DCP controls be supported
2. The LEP controls in relation to zoning, height and density be reconsidered. A more detailed and realistic investigation of the viability of these controls be undertaken before any decision is made as to permissible development in this ‘Key Precinct 6’.

- **04 Entertainment Precinct** (‘Key Precinct 7’ in draft DCP)
  An active open-air entertainment precinct was seen as a positive inclusion. It could incorporate active spaces such as half basketball and/or half tennis courts, and ongoing, programmed, activities along the lines that the open spaces around Federation Square (Melbourne) are used for performances and other occasions.

- **05 Newcastle Station** (Also part of ‘key Precinct 7’)
  
  The Group strongly supported the suggestion that the Station and the land surrounding it should retain some meaningful public access, and if possible, should at least partially serve a civic function. The heritage station building is an important element of the city’s cultural and transport history, and any redevelopment should, as proposed, fully acknowledge its heritage and treat any new insertions in a sensitive manner.

  The scale of the station, and of the Customs House and its tower (opposite) should inform the height of any new development on the site. Ideally, any new development should have a height which is less than that of the heritage tower.

  Parcel 16, which encompasses the heritage station building, has a proposed FSR of 1.5:1 with a height limit of 20 metres to the southern edge of the site and 10 metres to the north. The visual impact assessment diagrams raise some concern about these heights. The UDCG recommends a 10m height limit to allow the heritage towers to remain visible elements in the urban fabric of the city and to limit overshadowing and view losses to the south.

**COMMENT**

The narrower western part of the site is proposed to be ‘open space’ which it is assumed will permit its development to include active sporting facilities as suggested in the August report.

In the Newcastle Station zone, heights to the south have been reduced as recommended, and the draft DCP proposes *minimum* street wall heights of 10 m. along Wharf and Watt
Streets and 15m. along Scott Street where the existing station building is located. The draft LEP limits the height to 10 m. (Category K) over all the site except for the station building where it is 15m. (Category O). Heights in the 10-15m. range would be appropriate on this important heritage site, although the draft DCP minimal heights need not necessarily continue for the full street frontages, depending upon the detailed design for the full site.

It is recommended that:-
- The draft DCP heights and other controls be adopted in principle
- A strategic master plan for the full site be developed before any specific development proposal is considered.

**Summary Recommendation**

1. The draft DCP controls are generally supported, subject to a number of relevant comments above.
2. Because this is such a unique opportunity for excellent new places to be created, detailed urban design plans should be in place for each of the 4 Key Precincts before any specific development proposals are considered.
CCL 09/05/17
EXHIBITION OF DRAFT PLANNING AGREEMENT FOR RAIL CORRIDOR LAND BETWEEN WORTH PLACE AND WATT STREET NEWCASTLE

Attachment A: Draft Newcastle Urban Rail Transformation Program Planning Agreement

DISTRIBUTED UNDER SEPARATE COVER
Deed

Newcastle Urban Rail Transformation Program
Planning Agreement
Under s93F of the Environmental Planning and Assessment Act 1979

Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

[Insert Date]
Newcastle Urban Rail Transformation Program Planning Agreement

Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Newcastle Urban Rail Transformation Program Planning Agreement

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Newcastle Urban Rail Transformation Program Planning Agreement

Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Newcastle Urban Rail Transformation Program Planning Agreement

Summary Sheet

Council:
Name: Newcastle City Council
Address: 282 King Street, Newcastle NSW 2300
Telephone: 02 4974 2000
Facsimile: [Insert Details]
Email: [Insert Details]
Representative: [Insert Details]

Developer:
Name: Landcom (t/a UrbanGrowth NSW)
Address: Level 14, 60 Station Street Parramatta NSW 2150
Telephone: (02) 9841 8600
Facsimile: (02) 9841 8688
Email: [Insert Details]
Representative: [Insert Details]

Landowner:
Name: Hunter Development Corporation
Address: Suite B, Level 5, 26 Honeysuckle Drive, Newcastle NSW 2300
Telephone: 02 4904 2750
Facsimile: 02 4904 2751
Email: [Insert Details]
Representative: [Insert Details]

Land:
See definition of Land in clause 1.1.
Newcastle Urban Rail Transformation Program Planning Agreement
Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Development:

See definition of Development in clause 1.1.

Development Contributions:

See clause 9 and Schedule 2.

Application of s94, s94A and s94EF of the Act:

See clause 8.

Security:

Part 4

Restriction on dealings:

See clause 35.

Dispute Resolution:

Expert determination and mediation. See clauses 32 and 33.
Newcastle Urban Rail Transformation Program Planning Agreement
Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Newcastle Urban Rail Transformation Program Planning Agreement
Under s 93F of the Environmental Planning and Assessment Act 1979

Parties

Newcastle City Council ABN 25 242 068 129 of 282 King Street, Newcastle NSW 2300 (Council)
and
Landcom (t/a UrbanGrowth NSW) ABN 79 268 260 688 of Level 14, 60 Station Street, Parramatta NSW 2150 (Developer)
and
Hunter Development Corporation ABN 94 688 782 063 of Suite B, Level 5, 26 Honeysuckle Drive, Newcastle NSW 2300 (Landowner)

Background

A The Developer is established as a corporation under s5(1) of the Landcom Corporation Act 2001 with the corporate name of Landcom.
B The Developer trades under the name of UrbanGrowth NSW.
C The Landowner is a statutory corporation constituted under the Growth Centres (Development Corporations) Act 1974.
D The Landowner is the owner of the Land and leases the Land to the Developer.
E The Landowner and Developer have agreed that the Developer will redevelop the Land.
F The Developer has requested the Council to adopt a Planning Proposal to facilitate the LEP Amendment so as to make permissible the carrying out of the Development on the Land.
G The Developer has made or proposes to make a Development Application to carry out the Development on the Land.
H The Developer offers to make Development Contributions to the Council on the terms set out in this Deed in connection with the LEP Amendment.
Operative provisions

Part 1 - Preliminary

1 Definitions & Interpretation

1.1 In this Deed the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Approval includes approval, consent, licence, permission or the like.

Affordable Housing has the same meaning as in the Act.

Affordable Housing Site means the site shown in red on the plan in Schedule 8.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Civic Link Land means the land defined as such in Item 1 of the table to Schedule 2.

Civic Station Land means the land marked 'Civil Station Land' on the Civic Station Land Plan.

Civic Station Land Plan means the plan in Schedule 6.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action but does not include proceedings to enforce this Deed in the Land and Environment Court or any Court on appeal from that Court.

Construction Certificate has the same meaning as in the Act.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Council Specification Documents means:

(a) *City Centre Public Domain Technical Manual*;

(b) *Urban Forest Technical Manual*; and

(c) *Standard Drawings*,

and any amendment or replacement of those documents notified to the Developer within 6 months of the date of this Deed.

Darby Plaza Land means the land defined as such in Item 6 of the table to Schedule 2.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Design Intent means the design intent for the relevant Work Item in Schedule 7.
Development means the development of the Land which is facilitated by the LEP Amendment.

Development Application has the same meaning as in the Act.

Development Consent means a development consent within the meaning of the Act.

Development Contribution means any of the following, or any combination of them, to be used for, or applied towards, a public purpose:

- a monetary contribution,
- the dedication of land free of cost,
- the carrying out of Work,
- the provision of any other material public benefit,

but does not include any Security or other benefit provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s93F(3)(g) of the Act.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Final Lot means a lot to be created in the Development for separate residential occupation and disposition, not being a lot created by a subdivision of the Land:

(a) that is to be dedicated or otherwise transferred to the Council, or
(b) that may be further subdivided, or
(c) on which is situated a dwelling-house that was in existence on the date of this Deed

Foreshore Park Concept Plan means the concept plan in Schedule 4.

Item means the object of a Development Contribution specified in Column 1 of Schedule 2.

Land means the land specified or described in Schedule 1.

LEP means the Newcastle Local Environmental Plan 2012.

LEP Amendment means a local environmental plan which amends the LEP in the manner sought in the Planning Proposal.

Planning Proposal means planning proposal (Department Ref: PP_2016_NEWCA_007_00) to rezone the surplus portion of the rail corridor between Worth Place and Watt Street Newcastle, the Newcastle Train Station and certain adjacent land.

Party means a party to this Deed, including their successors and assigns.

Land Dedication Plan means the plan in Schedule 3 showing the location of the land to be dedicated.

Rectify means rectify, remedy or correct.

Regulation means the Environmental Planning and Assessment Regulation 2000.

Remediation Action Plan means the remediation action plan in Schedule 5.
Security means a letter of undertaking from the Developer to the Council containing a commitment to comply with this Agreement on terms satisfactory to the Council.

Subdivision Certificate has the same meaning as in the Act

Work means the physical result of any building, engineering or construction work in, on, over or under land, required to be carried out by the Developer under this Deed.

Work Items means Items which require Works to be carried out under this Deed.

1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.

1.2.2 A reference to a business day means a day, other than a Saturday or Sunday, on which banks are open for business generally in Sydney.

1.2.3 If the day on which something is to be done under this Deed is not a business day, then it must be done on the next business day.

1.2.4 A reference to dollars or $ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.

1.2.5 A reference in this Deed to a $ value relating to a Development Contribution is a reference to the value exclusive of GST.

1.2.6 A reference to any legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

1.2.7 A reference to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.

1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.

1.2.9 A reference to a person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form for that word or phrase has a corresponding meaning.

1.2.11 The singular includes the plural, and the plural includes the singular.

1.2.12 References to the word 'include' or 'including' are to be construed without limitation.

1.2.13 A reference to a Party to this Deed includes a reference to the Party's employees, agents and contractors, and the Party's successors and assigns.

1.2.14 Any schedules, appendices and attachments form part of this Deed.

2 Status of this Deed

2.1 This Deed is a planning agreement within the meaning of s93F(1) of the Act.
3 **Commencement of this Deed**

3.1 This Deed commences on the date on which it has been executed by all Parties.

3.2 The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 **Application of this Deed**

4.1 This Deed applies to the LEP Amendment and the Land.

5 **Commencement of Development Contributions obligations**

5.1 The Developer is under no obligation to make the Development Contributions to the Council in accordance with this Deed unless the LEP Amendment is made.

6 **Warranties**

6.1 The Parties warrant to each other that they:

6.1.1 have full capacity to enter into this Deed, and

6.1.2 are able to fully comply with their obligations under this Deed.

7 **Further agreements relating to this Deed**

7.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

8 **Application of s 94, s 94A and s 94EF of the Act to the Development**

8.1 This Deed does not exclude the application of s 94, s94A or s94EF of the Act to the Development.

9 **Provision of Development Contributions**

9.1 The Developer and Landowner are to make Development Contributions to the Council in accordance with Schedule 2 and any other provision of this Deed relating to the making of Development Contributions.

9.2 The Council is to apply each Development Contribution made by the Developer or Landowner under this Deed towards the public purpose for which it is made and otherwise in accordance with this Deed.
Part 2 – Provisions relating to dedication of Land

10 Procedures relating to the dedication of Land

10.1 A Development Contribution comprising the dedication of land is made for the purposes of this Deed when:

10.1.1 a deposited plan is registered in the register of plans held with the Registrar General that:

(a) dedicates land as a public road (including a temporary public road) under the Roads Act 1993, or

(b) creates a public reserve or drainage reserve under the Local Government Act 1993, or

10.1.2 the Council is given an instrument in registrable form under the Real Property Act 1900 duly executed by the Landowner as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered.

10.2 For the purposes of clause 10.1.2:

10.2.1 the Landowner is to give the Council, for execution by the Council as transferee, an instrument of transfer under the Real Property Act 1900 relating to the land to be dedicated, and

10.2.2 within 7 days of receiving it from Landowner, the Council is to execute it and return it to Landowner, and

10.2.3 within 7 days of receiving it from the Council (properly executed), the Landowner is to lodge it for registration with the Registrar General, and

10.2.4 the Developer and Landowner are to do all things reasonably necessary to enable it to be registered.

10.3 Land required to be dedicated under this Agreement is to be dedicated free of all registered and unregistered encumbrances and affectations, except as otherwise agreed in writing by the Council.

10.4 If, having used all reasonable endeavours, the Landowner cannot comply with clause 10.3, the Landowner may request that Council agree to accept the land subject to those encumbrances and affectations, and:

10.4.1 Council cannot withhold its agreement unreasonably if the encumbrance or affectation does not prevent the future use of the land for the purpose for which it is to be dedicated under this Deed, unless the encumbrance or affectation is a charge arising as a result of unpaid taxes or charges, and

10.4.2 in all other cases, Council may withhold its agreement in its absolute discretion.

11 Civic Station Works and Dedication

11.1 The Parties acknowledge that at the time of entry into this Deed, the Developer had not determined the extent to which buildings and structures comprising Civic Station would be demolished or retained.
11.2 Despite anything to the contrary in this Deed, the Developer is under no obligation to retain or demolish any part of Civic Station under this Deed, and the Council is under no obligation to accept dedication of the Civic Station Land.

11.3 The Developer must notify the Council within 14 days of obtaining all relevant Approvals for any works it proposes to carry out to Civic Station (Civic Station Works).

11.4 Within 90 days of the Developer providing the notice pursuant to clause 11.3, the Council must notify the Developer whether it will accept dedication of the Civic Station Land, having regard to the Civic Station Works.

11.5 If Council notifies the Developer that it will not accept dedication of the Civic Station Land, the Developer and Landowner may give Council notice of any additional part of the Civic Link Land which the Landowner and Developer require to be retained in the ownership of the Landowner for the purposes of any proposed use to which the Landowner and Developer may put the Civic Station Land.

11.6 The Civic Link Land required to be dedicated under this Deed excludes the Civic Station Land if Council determines that it does not wish to accept dedication of that land pursuant to this clause, and any additional land required to be retained by the Developer and Landowner under clause 11.5.

Part 3 – Provisions relating to the carrying out of Work

12 Design and Consultation

12.1 At the time of entry into this Deed the Developer had not prepared concept plans for the Works Items comprising embellishment works, other than in respect of Work Item 11 for which the Foreshore Park Concept Plan has been prepared.

12.2 The Developer will prepare concept plans for all Work Items comprising embellishment works, other than Work Item 11, in accordance with the Council Specification Documents and will submit them to Council.

12.3 The Parties acknowledge that the Foreshore Park Concept Plan and any other concept plans submitted to Council pursuant to this clause 12, are preliminary only and are subject to variation in consultation with Council and as a result of Approvals required for the relevant Work Items.

12.4 No amendment to this Deed is required if there is a variation to the Work Items comprising embellishment works as described in this Deed and as shown in concept plans submitted to Council pursuant to this clause, provided that:

12.4.1 the varied Work Item complies with the Council Specification Documents;

12.4.2 any key elements of the Work Item noted in Column 3 of the table to Schedule 2 in respect of the Work Item are included in the varied Work Item; and
12.4.3 in respect of the Civic Link Land and Darby Plaza Land embellishment works, the Work Item is consistent with the objectives outlined in the Design Intent for that Work Item.

12.5 The Developer must not lodge any Development Application or seek any other Approvals for a Work Item comprising embellishment works unless it has first submitted a concept plan to Council for the Work Item in accordance with this clause and considered any comments in respect of the Work Item from Council.

12.6 The Developer must not apply for any Construction Certificate or seek any other Approvals for a Work Item (other than lodging a Development Application) comprising embellishment works unless it has first submitted the construction drawings for the Work Item to Council and considered any comments in respect of the Work Item from Council.

13 Standard of construction of Work

13.1 Any Work that the Developer is required to carry out under this Deed is to be carried out in accordance with:

13.1.1 the requirements of any relevant Approval issued by a relevant Authority,

13.1.2 any Australian standards and other laws applicable to the Work,

13.1.3 the Council Specification Documents and

13.1.4 in a proper and workmanlike manner, complying with current industry practice and standards relating to the Work.

13.2 If there is any inconsistency between the requirements of any relevant Approval, any Australian standards or laws, or the Council Specification Documents, then the requirements of any relevant Approval, Australian standards and other applicable laws prevail to the extent of the inconsistency.

13.3 The Developer must appoint Council as the certifier in respect of any Works comprising embellishment works for the purpose of issuing a Construction Certificate in respect of those Works.

14 Variation to Work

14.1 The design or specification of any Work that is required to be carried out by the Developer under this Deed may be varied in accordance with this clause without the necessity for an amendment to this Deed.

14.2 For the purposes of clause 14.1, the Developer may make a written request to the Council to approve a variation to the design or specification of a Work in order to enable it to comply with the requirements of any Authority imposed in connection with any Approval relating to the carrying out of the Work.

14.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under clause 14.2.
15 Maintenance and management of Works

15.1 The Parties may, by agreement in writing, specify Work Items to which the Maintenance Period applies and the standard and other particulars of maintenance required.

15.2 If the Maintenance Period applies to a Work, the Developer is to maintain the Work during that Period, in accordance with the standard and other particulars of maintenance agreed between the Parties.

15.3 Despite any other provision of this Deed, if the Developer has complied with its obligations under this clause, the Council cannot make any claim, objection or demand about the state or condition of a Work referred to in clause 15.1 after the end of the Maintenance Period for that Work.

15.4 In this clause, Maintenance Period means the period of 24 months commencing on and from the date that Council accepts responsibility for a Work under clause 16.

16 Acceptance of risk in Works

16.1 Subject to anything to the contrary in this Agreement, the Council accepts responsibility for a Work on the later of:

16.1.1 when Work located on land to be dedicated to Council is completed for the purposes of this Deed in accordance with clause 21, or

16.1.2 when land on which that Work is located is dedicated to the Council.

16.2 The Developer, at its own cost, is to repair and make good to the satisfaction of the Council (acting reasonably) any loss or damage to a Work from any cause whatsoever which occurs before completion of the Work.

17 Access to land by Council

17.1 The Developer and Landowner are to permit the Council, its officers, employees, agents and contractors to enter the Land or any other land owned or controlled by the Developer or Landowner at any time, upon giving reasonable prior notice, to:

17.1.1 inspect, examine or test any Work, or

17.1.2 remedy any breach by the Developer in carrying out a Work.

18 Access to land by Developer

18.1 The Council is to permit the Developer, its officers, employees, agents and contractors to enter and occupy any land owned or controlled by the Council, including any part of the Land dedicated to the Council, to

18.1.1 enable the Developer to carry out any Work under this Deed that is required to be carried out on that land, or

18.1.2 perform any other obligation imposed on the Developer by this Agreement.
19 Council’s obligations relating to Work

19.1 The Council is not to unreasonably delay, hinder or otherwise interfere with the performance by the Developer of its obligations under this Deed in relation to Work.

20 Protection of people and property

20.1 The Developer is to ensure to the fullest extent reasonably practicable in carrying out any Work that:

20.1.1 all necessary measures are taken to protect people and property, and

20.1.2 unnecessary interference with the passage of people and vehicles is avoided, and

20.1.3 nuisances and unreasonable noise and disturbances are prevented.

21 Completion of Work

21.1 The Developer is to give the Council written notice of the date on which it will complete Work required to be carried out under this Deed.

21.2 The Council is to inspect the Work the subject of the notice referred to in clause 21.1 within 14 days of the date specified in the notice for completion of the Work.

21.3 Work is completed for the purposes of this Deed when the Council, acting reasonably, gives a certificate to the Developer to that effect, and Council can only withhold the certificate if the Work is not completed in accordance with this Deed.

22 Rectification of Defects

22.1 During the Defects Liability Period, the Council may give to the Developer a Rectification Notice.

22.2 The Developer is to comply with a Rectification Notice at its own cost according to its terms and to the satisfaction of the Council.

22.3 The Council is to do such things as are reasonably necessary to enable the Developer to comply with a Rectification Notice that has been given to it under clause 22.1.

22.4 In this clause:

22.4.1 Defect means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work or any part of a Work.

22.4.2 Defects Liability Period means the period of 12 months commencing on the day immediately after the Council accepts responsibility for a Work under clause 16.

22.4.3 Rectification Notice means a notice in writing

(a) identifying the nature and extent of a Defect,
(b) specifying the works or actions that are required to Rectify the Defect,
(c) specifying the date by which or the period within which the Defect is to be rectified.

23 Works-as-executed-plan

23.1 No later than 60 days after a Work is completed for the purposes of this Deed, the Developer is to submit to the Council a full works-as-executed-plan for the Work.

23.2 The Developer, being the copyright owner in the plan referred to in clause 23.1, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Deed.

Part 4 - Provisions relating to Affordable Housing

24 The PCG

24.1 Within 60 business days of the date of this Deed a Project Control Group (PCG) shall be established comprising 2 representatives from the Developer, and one representative each from the Landowner and the Council for the purpose of investigating and progressing the development of the Affordable Housing Site for Affordable Housing (AH Project).

24.2 The PCG shall be chaired by one of the representatives from the Developer, at the Developer’s election.

24.3 The first meeting of the PCG must be held no more than 20 business days after its establishment and at the first PCG meeting the PCG shall determine its functions, the regularity of its meetings and procedures.

25 Responsibilities in respect of Affordable Housing

25.1 The Developer will be responsible for investigations, planning and feasibility studies for the AH Project, and for the procurement of a community housing provider or other entity to deliver the AH Project.

25.2 The Developer shall bear the costs of performing its obligations under clause 25.1 (AH Project Costs) up to a maximum of $250,000.

25.3 If the Developer, or the PCG if the PCG is given the function of determining the feasibility of the AH Project, determines that the AH Project is feasible then:

25.3.1 the Landowner will make the Affordable Housing Site available at no cost for the purposes of the AH Project;

25.3.2 the Landowner will use its best endeavours to obtain all necessary approvals in order to make $3,150,000 of funding held by the Landowner for the Building Better Cities program available for the AH
Project, and if those approvals are obtained, will make that $3,150,000 of funding available for the AH Project; and

25.3.3 the Council will use its best endeavours to obtain all necessary approvals in order to make $3,000,000 of funding held by the Council for the Building Better Cities program available for the AH Project, and if those approvals are obtained, will make that $3,000,000 of funding available for the AH Project.

25.4 The Developer is not required by this Deed or otherwise to expend more than $250,000 in AH Project Costs unless the Landowner and Council have obtained and made available funding pursuant to clauses 25.3.2 and 25.3.3, or have otherwise agreed to reimburse the Developer for any AH Project costs in excess of $250,000.

25.5 If the Developer’s AH Project Costs exceed $250,000, it will be reimbursed from any funding provided by the Landowner and Council under clauses 25.3 or 25.4.

26 Feasibility of AH Project

26.1 If the Developer, or the PCG if the PCG is given the function of determining the feasibility of the AH Project, determines that the AH Project is not feasible, then:

26.1.1 the funding under clause 25 will be returned to the Landowner and Council, or if it has not been provided at that time, will not need to be provided;

26.1.2 the Landowner shall retain the Affordable Housing Site to deal with as the Landowner determines in its absolute discretion;

26.1.3 the Developer and Landowner will commit to providing a minimum of 5% of residential dwellings within the land the subject of the Planning Proposal as Affordable Housing; and

26.1.4 the PCG shall be dissolved.

26.2 For the purposes of clause 26.1.3 ‘residential dwellings’ means dwellings or dwelling houses but does not include:

26.2.1 student accommodation;

26.2.2 a boarding house;

26.2.3 group home;

26.2.4 hostel; or

26.2.5 seniors housing,

and all terms used in this clause 26.2 have the same meaning as in the LEP.

26.3 For the avoidance of doubt, the Developer, or the PCG if the PCG is given the function of determining the feasibility of the AH Project, may determine that the AH Project is not feasible if either or both of the Council and Landowner cannot obtain the necessary approvals to make the funding referred to in clauses 25.3.2 and 25.3.3 available.
Part 5 – Security and Enforcement

27 Provision of Security

27.1 The Developer is to give the Security to the Council when it executes this Deed.

28 Security for dedication of land

28.1 If the Landowner does not dedicate the land required to be dedicated under this Deed, or any part thereof, at the time at which it is required to be dedicated, the Landowner consents to the Council compulsorily acquiring that land for compensation in the amount of $1 without having to follow the pre-acquisition procedures under the Just Terms Act.

28.2 The Council is to only acquire land pursuant to clause 28.1 if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Landowner to dedicate the land required to be dedicated under this Deed.

28.3 Clause 28.1 constitutes an agreement for the purposes of section 30 of the Just Terms Act.

28.4 If, as a result of an acquisition referred to in clause 28.1, the Council is required to pay compensation to any person other than the Landowner, the Landowner is to reimburse the Council for that amount upon a written request being made by the Council or the Council can call on any Security for that purpose.

28.5 The Landowner indemnifies and keeps indemnified the Council against all claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land that is required to be dedicated under this Deed.

28.6 The Developer and Landowner are to promptly do all things necessary, and consent to the Council doing all things necessary, to give effect to this clause 28, including without limitation:

28.6.1 signing any documents or forms,
28.6.2 giving land owner’s consent for the lodgement of any Development Application,
28.6.3 producing certificates of title to the Registrar-General under the Real Property Act 1900, and
28.6.4 paying the Council’s costs arising from this clause 28.

28.7 In this clause, Just Terms Act means the Land Acquisition (Just Terms Compensation) Act 1991.

29 Breach of obligations

29.1 If the Council considers that the Developer or Landowner (Relevant Party) is in breach of any obligation under this Deed it may give a notice to the Relevant Party:
29.1.1 specifying the nature and extent of the breach,
29.1.2 requiring the Relevant Party to Rectify the breach to the Council’s satisfaction, and
29.1.3 specifying the period within which the breach is to be rectified, being a period that is reasonable in the circumstances.

29.2 A notice given under clause 29.1 is to allow the Relevant Party not less than 28 days (or such further period as the Council considers reasonable in the circumstances) to Rectify the breach.

29.3 If the Relevant Party does not comply with the notice given under clause 29.1 relating to the carrying out of Work under this Deed, the Council may step-in and remedy the breach.

29.4 Nothing in clause 29.3 affects the Council’s other rights to enforce this Deed.

29.5 Any costs incurred by the Council in remedying a breach in accordance with clause 29.3 may be recovered by the Council under this Deed or as a debt due in a court of competent jurisdiction.

29.6 For the purpose of clause 29.3, the Council’s costs of remedying a breach the subject of a notice given under clause 29.1 include, but are not limited to:
\begin{itemize}
  \item 29.6.1 the costs of the Council’s servants, agents and contractors reasonably incurred for that purpose,
  \item 29.6.2 all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
  \item 29.6.3 all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
\end{itemize}

30 Council to consult before enforcing this Deed

30.1 This clause applies to any of the Developer’s or Landowner’s obligations under this Deed.

30.2 If the Council reasonably forms the opinion that the Developer or Landowner (Relevant Party) has failed to comply with an obligation to which this clause applies, it is not to enforce this Deed against the Relevant Party unless it has first notified the Relevant Party in writing of its intention to do so and has consulted with the Relevant Party as to:
\begin{itemize}
  \item 30.2.1 the reason for the non-compliance,
  \item 30.2.2 the likely effects of the non-compliance, and
  \item 30.2.3 the Relevant Party’s capacity in all of the circumstances to reasonably Rectify the non-compliance.
\end{itemize}

30.3 The Council is not to enforce this Deed against the Relevant Party unless, after having consulted with the Relevant Party:
\begin{itemize}
  \item 30.3.1 it has reasonably formed the opinion the Relevant Party has no reasonable excuse for the non-compliance,
  \item 30.3.2 it has notified the Relevant Party in writing that it intends to enforce the Deed not earlier than 14 days from the date of the notice, and
  \item 30.3.3 the notice specifies the enforcement action it intends to take.
\end{itemize}
30.4 At any time between the date of the notice referred to in clause 30.3 and the time when the Council takes action to enforce this Deed, the Relevant Party may notify the Council of a Dispute under clause 32 or 33.

30.5 If the Relevant Party notifies the Council in accordance with clause 30.4, the Council is not to enforce this Deed against the Relevant Party in relation to the relevant non-compliance unless and until the dispute resolution process under clause 32 or 33 has been exhausted without resolution between the parties.

31 Enforcement in court

31.1 Without limiting any other provision of this Deed (other than clause 30), the Parties may enforce this Deed in any court of competent jurisdiction.

31.2 For the avoidance of doubt, nothing in this Deed (other than clause 30) prevents:

- 31.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates,
- 31.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part 6 –Dispute Resolution

32 Dispute resolution – expert determination

32.1 This clause applies to a Dispute between any of the Parties to this Deed about a matter arising in connection with this Deed that can be determined by an appropriately qualified expert (Expert Determination Dispute) if:

- 32.1.1 the Parties to the Dispute agree that it can be so determined, or
- 32.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.

32.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.

32.3 If a notice is given under clause 32.2, the Parties are to meet within 14 days of the notice to try to resolve the Dispute.

32.4 If the Dispute is not resolved within a further 28 days, the Dispute must be referred to the President of the NSW Law Society to appoint an expert to determine the Dispute.

32.5 The expert determination binds the Parties, except in the case of the expert’s fraud or misfeasance.

32.6 Each Party must bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
32.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

33 Dispute resolution - mediation

33.1 This clause applies to any Dispute under this Deed other than a Dispute to which clause 32 applies.

33.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.

33.3 If a notice is given under clause 33.2, the Parties are to meet within 14 days of the notice to try to resolve the Dispute.

33.4 If the Dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time, and must request the President of the Law Society, or the President’s nominee, to select a mediator.

33.5 If the Dispute is not resolved by mediation within a further 28 days, or any longer period that may be needed to complete any mediation process which has been started, then the Parties may exercise their legal rights in relation to the Dispute, including by taking legal proceedings in a court of competent jurisdiction in New South Wales.

33.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.

33.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part 7 – Restriction on Dealings

34 Registration of this Deed

34.1 In this clause 34, Dedication Land means any part of the Land which is to be dedicated to Council.

34.2 The Parties agree to register this Deed for the purposes of s93H(1) of the Act on the title to the Dedication Land, after the Lot 2 in DP1226145 (Lot 2) is subdivided to create the part of Lot 2 which comprises Dedication Land as a separate lot.

34.3 Within 10 business days of the Developer being notified by LPI of the creation of the part of the Dedication Land on Lot 2 as a separate lot, the Developer is to deliver to the Council in registrable form:

34.3.1 an instrument requesting registration of this Deed on the title to each lot containing any Dedication Land, executed by the Landowner and any other person required by the Registrar-General to execute such instrument, and

34.3.2 the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration.
34.4 The Developer and Landowner at their cost are to:

34.4.1 do such other things as are reasonably necessary to enable registration of this Deed to occur, and

34.4.2 provide the Council with evidence of registration within 5 days of being notified by the Land and Property Information of such registration.

34.5 If this Deed is registered on the title to a lot which contains Dedication Land and that lot is subsequently subdivided such that any of the newly formed lots do not contain any part of the Dedication Land then the Parties agree to do all things as are reasonably necessary to ensure that the Deed is not registered on the title to those newly formed lots which do not contain the Dedication Land, including by instructing the Registrar-General not to register this Deed on the title to those lots.

34.6 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to the Land:

34.6.1 in so far as the part of the Land concerned is not Dedication Land, and

34.6.2 in relation to any other part of the Dedication Land, once the Developer has completed its obligations under this Deed to the reasonable satisfaction of the Council or this Deed is terminated or otherwise comes to an end for any other reason.

35 Assignment, sale of Land, etc

35.1 The Landowner is not to sell or transfer the Land, other than a Final Lot to any person unless:

35.1.1 the Landowner has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred, of a deed in favour of the Council on terms satisfactory to the Council, and

35.1.2 the Council has given written notice to the Landowner stating that it reasonably considers that the purchaser, is reasonably capable of performing its obligations under the Deed, and

35.1.3 the Landowner is not in breach of this Deed, and

35.1.4 the Council otherwise consents to the transfer, such consent not to be unreasonably withheld.

35.2 The Developer and Landowner are not to assign their rights or obligations under this Deed, or novate this Deed to any person unless:

35.2.1 the Developer or Landowner has, at no cost to the Council, first procured the execution by the person to whom the Developer’s or Landowner’s rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms satisfactory to the Council, and

35.2.2 the Council has given written notice to the Developer or Landowner stating that it reasonably considers that the assignee or novatee is reasonably capable of performing its obligations under the Deed, and

35.2.3 the Developer and Landowner are not in breach of this Deed, and
35.2.4   the Council otherwise consents to the assignment or novation, such consent not to be unreasonably withheld.

35.3   Clauses 35.1 and 35.2 do not apply:

35.3.1   in relation to any sale or transfer of any land if this Deed is registered on the title of that land at the time of the sale or transfer; or

35.3.2   in relation to any sale or transfer by the Landowner of any part of the Land to the University of Newcastle, provided that the relevant part of the Land does not include any Dedication Land.

35.4   Nothing in this Deed prevents:

35.4.1   the Landowner selling or transferring any part of the Land, assigning its rights and obligations under this Deed or novating this Deed to the Developer; or

35.4.2   the Developer assigning its rights and obligations under this Deed to the Landowner or novating this Deed to the Landowner,

provided that the Developer and Landowner jointly provide Council with 10 business days written notice of the proposed transfer, sale, assignment or novation and written notice of the date of settlement of any sale or transfer of the Land within 10 business days after the settlement has occurred.

35.5   If a sale, transfer, assignment or novation under clause 35.4 occurs, then on and from the date of the sale, transfer, assignment or novation (Effective Date):

35.5.1   the Transferor is released from its obligations under this Deed;

35.5.2   the Transferee is substituted for the Transferor under this Deed and is bound to perform the obligations of the Transferor under this Deed including those which arose before the Effective Date and which have not yet been performed; and

35.5.3   the Transferee indemnifies the Council against all Claims which the Council suffers or incurs in relation to this Deed which arise or relate to acts or omissions of the Transferor occurring after the Effective Date; and

35.5.4   if the Transferor is the Developer, then the Council will return the Security to the Transferor within 10 business days of the Effective Date.

35.6   In clause 35.5:

35.6.1   Transferor means the Party which is selling or transferring part of the Land or assigning, its rights or obligations under this Deed or novating this Deed; and

35.6.2   Transferee means the party to whom Land is being sold or transferred, or to whom rights and obligations under this Deed are being assigned or to whom this Deed is being novated;
Part 8 – Indemnities & Insurance

36 Release

36.1 Each Party releases the other Party from any Claim it may have against the other Party arising in connection with the performance of their obligations under this Deed except if, and to the extent that, the Claim arises because of the other Party's negligence or default.

37 Indemnity

37.1 Each Party indemnifies the other Party from and against all Claims that may be sustained, suffered, recovered or made against the other Party arising in connection with the performance of their obligations under this Deed except if, and to the extent that, the Claim arises because of the other Party's negligence or default.

38 Insurance

38.1 This clause only applies if Landcom is the Developer under this Deed.
38.2 The Developer warrants, and Council acknowledges, that:
   38.2.1 the Developer is a member of the NSW Treasury Managed Fund (Fund); and
   38.2.2 the Fund provides the Developer with insurance cover against any liability arising from a breach by the Developer of its obligations under this Deed.

Part 9 - Other provisions

39 Review of Deed

39.1 The Parties are to review this Deed every 5 years, and otherwise if either Party considers that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Deed.
39.2 For the purposes of clause 39.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits, or enables the Council or any other planning authority to restrict or prohibit, any aspect of the Development.
39.3 For the purposes of addressing any matter arising from a review of this Deed referred to in clause 39.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.
39.4 A Party's failure to agree to take action requested by the other Party as a consequence of a review referred to in clause 39.1 is not a Dispute for the purposes of this Deed, and is not a breach of this Deed.
40 Notices

40.1 A notice, consent, information, application or request (Notification) that must or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:

40.1.1 delivered or posted to that Party at its address set out in the Summary Sheet,

40.1.2 faxed to that Party at its fax number set out in the Summary Sheet, or

40.1.3 emailed to that Party at its email address set out in the Summary Sheet.

40.2 A Party may change its address or fax number by giving the other Party 3 business days’ notice of the change, in which case the new address or fax number is treated as the address or number in the Summary Sheet.

40.3 A Notification is to be treated as given or made if it is:

40.3.1 delivered, when it is left at the relevant address,

40.3.2 sent by post, 2 business days after it is posted,

40.3.3 sent by fax, as soon as the sender receives from the sender’s fax machine a report of an error-free transmission to the correct fax number, or

40.3.4 sent by email and the sender does not receive a delivery failure message from the sender’s internet service provider within a period of 24 hours of the email being sent.

40.4 If a Notification is delivered, or an error-free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

41 Approvals and consent

41.1 In this clause, a reference to an approval or consent does not include a reference to a Development Consent.

41.2 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party’s absolute discretion and subject to any conditions determined by the Party.

41.3 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

42 Costs

42.1 The Developer will pay the Council’s costs of preparing, negotiating, executing and stamping this Deed and any document related to this Deed, up to a maximum amount of $1,000.00. To the extent that the Council’s costs exceed this maximum amount, Council will be responsible for paying that excess amount.
43 Entire Deed

43.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.

43.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

44 Further acts

44.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

45 Governing law and jurisdiction

45.1 This Deed is governed by the law of New South Wales.

45.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them, and are not to object to the exercise of jurisdiction by those courts on any basis.

46 No Fetter

46.1 Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

47 Illegality

47.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

48 Severability

48.1 If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

48.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part of it is to be treated as removed from this Deed, but the rest of this Deed is not affected.
49 Amendment

49.1 No amendment of this Deed has any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.

50 Waiver

50.1 A Party does not waive any of the other Party’s obligation or breach of obligation merely by failing to do, or delaying in doing, something under this Deed.

50.2 A waiver by a Party is effective only if it is in writing.

50.3 A written waiver by a Party is effective only in relation to the particular obligation or breach for which it is given. It is not to be taken as an implied waiver of any other obligation or breach, or as an implied waiver of that obligation or breach in relation to any other occasion.

51 GST

51.1 In this clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable for the Taxable Supply.

GST Law has the same meaning as in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input Tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law.

Taxable Supply has the meaning given by the GST Law, excluding (except where expressly agreed otherwise) a supply for which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

51.2 Subject to clause 51.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

51.3 Clause 51.4 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.

51.4 No additional amount is payable by the Council under clause 51.4 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.

51.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that
are not subject to Division 82 of the A New Tax System (Goods and Services Tax) Act 1999, the Parties agree:

51.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies before issuing Tax Invoices for those Supplies;

51.5.2 that any amounts payable by the Parties in accordance with clause 51.2 (as limited by clause 51.4) to each other for those Supplies will be set off against each other to the extent that they are equivalent in amount.

51.6 No payment of any amount under this clause 51, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided the recipient with a Tax Invoice or Adjustment Note as the case may be.

51.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.

51.8 This clause continues to apply after expiration or termination of this Deed.

52 Explanatory Note Relating to this Deed

52.1 The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.

52.2 Under clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Deed.
Schedule 1
(Clause 1.1)

**Land**

The land comprised in the lots set out below:

- Lot 2 in DP1226145
- Lots 2-6 1226551
Schedule 2
(Claude 9)

Development Contributions

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Public Purpose</td>
<td>Manner &amp; Extent and Key Elements</td>
<td>Timing</td>
<td>Responsible Party</td>
</tr>
<tr>
<td>Civic Link</td>
<td>Civic Link - Public Open Space</td>
<td>Dedication of the approximately rectangular portion of Lot 2 in DP1226145 shown bounded in red on the Land Dedication Plan (Civic Link Land), subject to clause 11</td>
<td>Dedication after completion of Work Items 2, 3, and 4</td>
<td>Landowner</td>
</tr>
</tbody>
</table>
## Newcastle Urban Rail Transformation Program Planning Agreement

### Newcastle City Council
### Landcom (t/a UrbanGrowth NSW)
### Hunter Development Corporation

<table>
<thead>
<tr>
<th>Work Item</th>
<th>Location</th>
<th>Description</th>
<th>Completion Timeline</th>
<th>Responsible Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Civic Link - Public Open Space</td>
<td>Full or partial demolition of any buildings/structures on the Civic Link Land as determined by the Developer</td>
<td>Works to commence within 6 months of the grant of Approval for those Works</td>
<td>Developer</td>
</tr>
<tr>
<td>3</td>
<td>Civic Link - Public Open Space</td>
<td>Remediation of the Civic Link Land in accordance with the Remediation Action Plan</td>
<td>Works to be completed within 6 months of the grant of Approval for those Works</td>
<td>Developer</td>
</tr>
</tbody>
</table>
| 4         | Civic Link - Public Open Space | Embellishment of the Civic Link Land with a minimum value of $2,285,000 up to a maximum value of $2,795,000 including the following key elements:  
- soft landscaping  
- footpaths  
- trees  
- furniture (benches, bins, bike rack, drink fountain)  
- lighting  
- public art | Works to commence within 6 months of the grant of Approval to those Works and provided the Council has remediated the land referred to in Item 5, if required, and Works to be carried out in association with the Work Item 5 | Developer |
### Newcastle Urban Rail Transformation Program Planning Agreement

**Newcastle City Council**  
**Landcom (t/a UrbanGrowth NSW)**  
**Hunter Development Corporation**

| No. | Civic Link - Public Open Space | Embellishment of the land being Museum Square and the Civic Station forecourt adjacent to the Civic Link Land identified within the 'boundary for embellishment' in the Design Intent for Civic Link in Schedule 7 with a minimum value of $1,290,000 up to a maximum value of $1,575,000, including the following key elements:  
• soft landscaping  
• footpaths  
• trees  
• furniture  
• lighting | Works to commence within 6 months of the grant of Approval for those Works and completion of the remediation works being Item 3, and the remediation by Council of the land on which these Works are to be located, if required. | Developer |
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>5</td>
<td></td>
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</tbody>
</table>

**Darby Plaza**

<table>
<thead>
<tr>
<th>No.</th>
<th>Darby Plaza - Public Open Space</th>
<th>Dedication of land being the small portion of Lot 2, DP1226551 as shown bounded in red on the Land Dedication Plan (Darby Plaza Land).</th>
<th>Dedication after completion of Works being Items 7 and 8</th>
<th>Landowner</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>#</td>
<td>Location</td>
<td>Description</td>
<td>Start Date Conditions</td>
<td>Responsible Party</td>
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</tr>
<tr>
<td>7</td>
<td>Darby Plaza- Public Open Space</td>
<td>Remediation of Darby Plaza Land in accordance with the Remediation Action Plan</td>
<td>Works to commence within 6 months of the grant of Approval for the Works</td>
<td>Developer</td>
</tr>
</tbody>
</table>
| 8 | Darby Plaza- Public Open Space | Embellishment of Darby Plaza Land with a minimum value of $360,000 up to a maximum value of $440,000, including the following key elements:  
  - soft landscaping  
  - footpaths  
  - trees  
  - furniture (benches, bins)  
  - lighting | Works to commute within 6 months of the grant of Approval for those Works | Developer         |
Newcastle Urban Rail Transformation Program Planning Agreement

Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

**Foreshore Park**

<table>
<thead>
<tr>
<th>9</th>
<th>Expanded Foreshore Park - Public Open Space</th>
<th>Dedication of the long strip of part of Lot 4 and part of Lot 6 (between western alignment with Perkins Street and eastern extent of the proposed RE1 zone) in DP 1226551 shown bounded in red on the Land Dedication Plan (excluding land required for light rail alignment to southern boundary of lot) <em>(Foreshore Park Land).</em></th>
<th>Dedication after completion of Work Items 10, 11, 13 and 14</th>
<th>Landowner</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Expanded Foreshore Park - Public Open Space</td>
<td>Remediation of Foreshore Park Land and part of Lots 3 and 5 in DP 1226551 in accordance with the Remediation Action Plan (between western alignment with Perkins Street and eastern extent of the proposed RE1 zone)</td>
<td>Works to commence within 6 months of the grant of Approval for those Works</td>
<td>Developer</td>
</tr>
</tbody>
</table>
# Newcastle Urban Rail Transformation Program Planning Agreement

**Newcastle City Council**  
**Landcom (t/a UrbanGrowth NSW)**  
**Hunter Development Corporation**

<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>Value Range</th>
<th>Developer</th>
</tr>
</thead>
</table>
| 11 | Expanded Foreshore Park - Public Open Space  
     Embellishment of Foreshore Park Land and part of Lots 3 and 5 in DP 1226551 (between the western alignment with Perkins Street and the eastern extent of the proposed RE1 zone) with a minimum value of $4,205,000 up to a maximum value of $5,140,000, including the following key elements:  
     - three new pedestrian crossings between Wharf Road and Hunter/Scott Street at locations to be determined (potentially at Wolfe, Market and Newcomen Streets)  
     - shared road aligned with Perkins Street, between Wharf Road and Hunter Street  
     - soft landscaping  
     - footpaths  
     - trees  
     - furniture (benches, bins, bike rack, drink fountain)  
     - lighting  
     - public art  
     - streetscape works to north side of Scott Street and Hunter Street and south side of Wharf Road | Works to commence within 6 months of the grant of Approval for those Works |  

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This agreement outlines the specifications and conditions for the expansion and embellishment of a public open space in Newcastle, including infrastructure and amenities to be developed within the specified value range.
Newcastle Urban Rail Transformation Program Planning Agreement

Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Civic Lane Widening

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Streetscape Improvement</td>
<td>Dedication of land to north side of Civic Lane being the strip of land marked in red on the Land Dedication Land being part of Lot 2, DP1226145, with dimensions of approximately 1m wide and 154m long</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Within 6 months of the registration of the plan of subdivision to create the land to be dedicated as a separate lot</td>
</tr>
</tbody>
</table>

Heritage Conservation

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Signal Box Heritage conservation</td>
<td>Signal Box - Works to make good heritage fabric of building to enable the fit-out by others, up to a maximum value of $300,000 (Excludes alterations or additions to building)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Works to commence within 6 months of the grant of Approval for the Works or the written advice from Council that the works do not need development consent (under clause 5.10(3) of the LEP).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Developer</td>
</tr>
<tr>
<td></td>
<td>Heritage Conservation</td>
<td>Description</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>14</td>
<td>Signal Box Heritage</td>
<td>Signal Box toilet block - Redevelopment of building to provide public toilets for use by park and signal box use in accordance with DA2016-01081.</td>
</tr>
<tr>
<td>15</td>
<td>Civic Station Heritage</td>
<td>Works to maintain the building in good order until full or partial demolition (Excludes alterations or additions to building)</td>
</tr>
<tr>
<td>16</td>
<td>Civic Station Heritage</td>
<td>Civic Station - Dedication of any retained buildings or structures comprising Civic Station to Council subject to clause 11.</td>
</tr>
<tr>
<td>Item</td>
<td>Activity</td>
<td>Details</td>
</tr>
<tr>
<td>------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td>17</td>
<td>Newcastle Station - Works to heritage fabric to enable temporary uses up to a maximum value of $1,500,000 (Excludes alterations or additions to building considered beyond maintenance and making good)</td>
<td>Works to commence within 6 months of the grant of Approval or the written advice from Council that the works do not need development consent (under clause 5.10(3) of the LEP).</td>
</tr>
<tr>
<td>18</td>
<td>Newcastle Station - Ongoing maintenance of building and site</td>
<td>Upon completion of Works being Item 17 and for a period of not more than 24 months from commencement or until control of the site is relinquished by Hunter Development Corporation, whichever comes sooner.</td>
</tr>
</tbody>
</table>
## Affordable Housing

<table>
<thead>
<tr>
<th>No.</th>
<th>Affordable Housing</th>
<th>Provision of Affordable Housing in accordance with Part 4</th>
<th>As determined by any contractor retained to deliver the AH Project</th>
<th>Developer, Landowner and Council</th>
</tr>
</thead>
</table>
Schedule 3
(clause 1.1)

Land Dedication Plan
Schedule 4

(clause 1.1)

Foreshore Park Concept Plan
Newcastle Urban Rail Transformation Program Planning Agreement
Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation
Schedule 5

Remediation Action Plan

(Clause 1.1)
Schedule 6
(clause 1.1)

Civic Station Land Plan
Schedule 7
(clause 1.1)

Design Intent
Darby Plaza Design Intent

The Darby Plaza area is identified as a Character Area within the draft amendment to the Newcastle Development Control Plan 2012. The objectives for the area are to:

1. Provide new open space and improve pedestrian amenity along Hunter Street and Darby Plaza.
2. Promote a permeable street network and enhance pedestrian connections from Darby street to the foreshore.
3. Promote active street frontages.
4. Protect heritage items and contributory buildings.
5. Provide a strong built edge to Darby Plaza and create an integrated space between the public and private lands.

Within the broader character area, the Darby Plaza public open space will facilitate pedestrian and cycle access between Hunter street and Argyle street, at the alignment of Darby street. The public domain will be integrated with the future private open space on the adjacent sites and the design will allow for this.

The objectives of the Darby Plaza public open space are to provide a space which

1. facilitates linkages and accessibility between Darby street and the harbour foreshore, enhanced by visual links and signage
2. provide opportunities for people to rest, walk, and cycle in a safe and comfortable environment, including through the provision of:
   a) seating and shade
   b) high quality paving treatments
   c) lighting and passive surveillance opportunities, and
   d) indigenous plant and tree species.
3. includes restricted access to neighbouring development sites through a shared vehicular/pedestrian zone from Argyle street, delineated through landscape realments
4. may be fronted by active uses include cafe/retail uses to the Western edge, incorporating opportunities for al-fresco dining.

Embellishment is to be in accordance with a development approval and generally compliant with the Newcastle Development Control Plan 2012 and Newcastle City Council’s relevant Technical Manuals including City Centre Public Domain, Urban Forest and Landscape.
Civic Link Design Intent

Newcastle Urban Rail Transformation Program Planning Agreement
Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Civic area is identified as a Character Area within the draft amendment to the Newcastle Development Control Plan 2012. The objectives for this area are to:

1. Provide a new public space that links the civic, administrative, education and cultural heart of Newcastle to the foreshore.
2. Guide development surrounding the new Civic Link and along Civic Lane that contributes to the realisation of the area as the civic heart of Newcastle.
3. Promote a permeable street network and enhance pedestrian connections from Hunter Street to the foreshore.
4. Promote active frontages to streets and public spaces.
5. Respect heritage items and contributory buildings.

Within the broader character area, the focus of Civic Link is to create a new open space, and walking, cycling and visual connections that link Newcastle’s Civic buildings to the waterfront. The public domain will provide for passive recreation with the potential to accommodate intimate community events. It will be integrated with the private open space or public realm paving areas on the adjacent sites and the design will allow for this.

The objectives of the Civic Link public open space are to provide a space which:

a) facilitates linkages, continuity and accessibility within and between the Civic Precinct and the harbour foreshore, enhanced by visual links and signage

b) enables recreation opportunities that provide opportunities for people to meet, rest, walk and cycle in a safe and comfortable environment, including through the provision of:
   a. formal and informal seating and shade
   b. high quality landscaping and design
   c. shade structures of good quality
   d. lighting and passive surveillance opportunities.
   e. deep soil planting with indigenous plant and tree species

c) allows for a formalise 3m pathway from Hunter Street to Worth Place to ensure easy pedestrian movement as well as a visual linkage.

d) Public art piece within the Civic Link space

e) Incorporates the interpretation of the former significant uses of the site and structures located above and below the ground

f) is capable of supporting smaller public gatherings

g) is fronted by active uses include cafe/retail uses to the western edge, incorporating opportunities for al-fresco dining.

h) includes restricted access to Civic Lane in the south-west corner of the site through a snared vehicular/pedestrian zone, delineated through landscape and other appropriate street furniture (bollards) treatments

Embellishment is to be in accordance with development approval and generally compliant with the Newcastle Development Control Plan 2012 and Newcastle City Council’s relevant Technical Manuals including City Centre Public Domain, Urban Forest, and Landscape.
Schedule 8
(clause 1.1)

Affordable Housing Site
Newcastle Urban Rail Transformation Program Planning Agreement
Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Execution

Executed as an Deed

Dated:

Executed on behalf of the Council

General Manager

Witness/Name/Position

Executed on behalf of the Developer

Executed on behalf of Landcom (t/a UrbanGrowth NSW) by me, as delegate of Landcom (t/a UrbanGrowth NSW) and I hereby certify that I have no notice of revocation of such delegation:

__________________________________________

Name/Position

__________________________________________

Witness/Name/Position
Newcastle Urban Rail Transformation Program Planning Agreement
Newcastle City Council
Landcom (t/a UrbanGrowth NSW)
Hunter Development Corporation

Executed on behalf of the Hunter Development Corporation by its authorised delegate in the presence of:

-------------------  -------------------
Witness Signature   Signature of Authorised Delegate

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Witness Name        Full Name of Authorised Delegate
Appendix
(Clause 53)

Environmental Planning and Assessment Regulation 2000
(Clause 25E)

Explanatory Note

Draft Planning Agreement
Under s93F of the Environmental Planning and Assessment Act 1979

Parties

Newcastle City Council ABN 25 242 068 129 of 282 King Street, Newcastle NSW 2300 (Council)

and

Landcom (t/a UrbanGrowth NSW) ABN 79 268 260 688 of Level 14, 60 Station Street, Parramatta NSW 2150 (Developer)

and

Hunter Development Corporation ABN 94 688 782 063 of Suite B, Level 5, 26 Honeysuckle Drive, Newcastle NSW 2300 (Landowner)

Description of the Land to which the Draft Planning Agreement Applies

- Lot 2 DP 1226145
- Lots 2-6 DP12266551

Description of Proposed Instrument Change

Rezoning of the surplus portion of the rail corridor between Worth Place and Watt Street Newcastle, the Newcastle Train Station and certain adjacent land to enable mixed use, public open space and tourist uses.
Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to provide increased public open space for the Newcastle community and to retain, maintain and improve heritage aspects of the former Newcastle CBD rail corridor.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the Environmental Planning and Assessment Act 1979 (Act). It is an agreement between the Council, the Landowner and the Developer. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for public purposes (as defined in s93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

• relates to the LEP Amendment (as defined in clause 1.1 of the Draft Planning Agreement),
• does not exclude the application of s94, s94A or s94EF of the Act to the Development,
• provides for embellishment of open space to create a new Civic Link, Darby Plaza and expanded Foreshore Park;
• provides for dedication of the above mentioned open space, including buildings within;
• provides for the maintenance and restoration of heritage buildings and facilitates adaptive reuse of Newcastle Station and Signal Box;
• provides for remediation works to be carried out in accordance with a Remediation Action Plan,
• provides for the widening of Civic Lane;
• provides for the funding of an affordable housing project on a specified site with a fallback position of a minimum of 5% of total residential development as affordable housing,
• is to be registered on the title to those parts of the Land to be dedicated to Council,
• imposes restrictions on the Parties transferring the Land or part of the Land or assigning, or novating an interest under the agreement, subject to exceptions,
• provides two dispute resolution methods for a dispute, being expert determination and mediation,
• provides that the agreement is governed by the law of New South Wales, and
• provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the agreement.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement
The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the land to which it applies,
- provides land for public purposes,
- provides for the provision and maintenance of affordable housing, and
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s5(a)(ii), (iv) and (viii) and (c) of the Act.

For Planning Authorities:

**Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities**

N/A

**Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted**

N/A

**Councils – How the Draft Planning Agreement Promotes the Elements of the Council’s Charter**

The Draft Planning Agreement promotes the elements of the Council’s charter by:

[Drafting Note. To be Completed]

**All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority’s Capital Works Program**

[Drafting Note. To be Completed]

**All Planning Authorities - Whether the Draft Planning Agreement specifies that certain requirements must be complied with before issuing a construction certificate, subdivision certificate or occupation certificate**

[Drafting Note. To be Completed]