

TO WHOM IT MAY CONCERN:

Submission re Newcastle Development Control Plan 2012 Amendment Newcastle City Centre

Thank you for the opportunity to comment on the Newcastle Development Control Plan 2012 Amendment Newcastle City Centre, currently on public exhibition.

I make these comments in my individual capacity as an active citizen of Newcastle. I do not live in the City Centre, and I have no interest of a private or pecuniary nature in any current or proposed development in the area covered by this DCP. I served two terms as a Newcastle councillor (from 1991 to 1999), when I was involved in many planning and development debates and decisions, and I have continued my interest and involvement in this aspect of Newcastle's civic life. I am actively involved in my local community (Tighes Hill) and with the community-based Throsby Villages Alliance. I am also an active member of The Greens Party.

I repeat the concerns raised in my submission to the draft State Environmental Planning Policy Amendment (Newcastle City Centre) 2014, which was recently on public exhibition (for only 16 days), and which should be read in conjunction with this submission. I regret to say that I have received no response to my request for an extension of the exhibition period for that process.

In general, the Development Control Plan Amendment has many admirable features, which – if implemented – would significantly assist the revitalisation of the Newcastle City Centre. I particularly note and support the Plan's positive support for public domain improvements and heritage protection.

However, having examined the various submissions to the Newcastle Urban Renewal Strategy on which the proposed changes to height limits in the recently exhibited City Centre SEPP and the DCP are based, it is also clear that significant aspects of the Plan (and the associated changes to the LEP initiated by the SEPP) have been driven by vested interests and market considerations, rather than by the public interest and sound planning principles. The many worthy aspects of the DCP are unfortunately contaminated and compromised by these influences.

It is also highly regrettable that the process has provided little opportunity for the Newcastle community to engage in meaningful conversation and debate about the potential impact on the city of the radically new elements that have been introduced to the LEP and the DCP subsequent to what was proposed during the exhibition of the 2012 Newcastle Urban Renewal Strategy. The strong impression that this has left among much of the Newcastle community is that this is planning to serve the interests of developers and corporations, rather than for the benefit of the community. As an illustration of the genuineness of the government's commitment to community engagement in strategic planning (a cornerstone of the argument advanced in support of the government's proposed changes to the NSW planning system), this will confirm to many that the reality does not match the rhetoric.

I am also very concerned about the close involvement of development interests (both GPT and Urban Growth) in the development of these instruments. This blurs proper and established boundaries between regulatory and approval functions on the one hand, and advocacy and profit-making objectives on the other. The lack of appropriate separation in these processes and relationships is systemically inappropriate and highly conducive to potential corruption. I believe that ICAC should be consulted in relation to this issue, to recommend appropriate institutional firewalls and procedural checks and balances that can give the community confidence that the planning and development assessment processes for the citycentre will be conducted with probity and on the genuine merits of proposals.

My specific comments on the Development Control Plan are as follows:

1. Introduction:

1 Vol.1, p.6, under “Description” states:

This section forms part of the community vision and is consistent with the provisions of the Newcastle Local Environmental Plan 2012 and is to be read in conjunction with the LEP and DCP for the assessment of all development applications.

It is unclear what is meant by the assertion that this document “is to be read in conjunction with the ... DCP” when it is part of the Newcastle DCP). Is this simply careless drafting, or is there some difference between this document and “the DCP”? Or is the intention that this *section* of the DCP should be read in conjunction with *other* sections of the DCP? (If so, I suggest rewording).

2. Vision:

I Support the Plan's vision for the city (p.7), though, as with so many aspects of local and state government action in Newcastle, it is difficult to see how this vision will be achieved given current initiatives (such as the proposed cutting of the city's rail services and the proposed tall towers in the East End) that are so clearly antithetical to this vision.

3. Character Areas Overview:

The division of the citycentre into various Character Areas seems a sensible enough approach, though not without its disadvantages (see below, especially re city form).

However, it is not assisted by inconsistency in terminology (e.g., the map of city character areas on page 13 identifies an “East End” area, which is presumably (but confusingly) meant to be the “City East” area identified in the legend in Figure 6.01-2. This is simply one example among several that suggest that the DCP document has been hastily drafted and poorly edited. For the sake of clarity and accuracy, the draft document should be reviewed by a professional editor / proof-reader before final endorsement and publication.

Inconsistency permeates the Plan. For example, point f) of the “Overall Principles” page 12, Part 6.01) expresses the admirable aim that “Existing significant views and vistas to buildings and places of historic and aesthetic importance are protected”. In fact, however, the radically increased allowable building heights shown in the Plan for certain East End tower sites are clearly contrary to this stated aim.

4. West End:

1. The use of the term “the future CBD of Newcastle” (p.14) is highly problematic and very confusing. Is the restriction of the future Newcastle CBD to the area entirely within the boundary of the Newcastle West Character Area (as indicated in the DCP) really a core planning intention, as this use of the term effectively states? If so, this creates a significant – and potentially confusing - distinction between the “Newcastle City Centre” (i.e., the total area covered by this DCP) and the “Newcastle CBD”, which would necessarily mean that all the other Character Areas identified in the Plan as part of the City Centre will no longer be considered part of the Newcastle CBD. This is illogical, and inconsistent with either the common community understanding of what constitutes the Newcastle CBD, or with other formal planning definitions and approaches. I rather suspect that this is simply loose drafting

(or loose thinking), and that the real planning intention is to intensify the characteristics of the West End that integrate it with the wider Newcastle CBD, which seems a good and reasonable planning objective. I strongly suggest that the wording in the Plan be changed to more accurately reflect this.

2. I strongly support the Principles expressed in the panel on p.14. I would only add that in striving to achieve a sense of enclosure from built development fronting Birdwood Park, it is also important that such development does not “canyonise” the park space, which is not entirely the same as protecting the solar exposure of the southern side of the park, but which is a key design factor in the park's future amenity. This will require permeability, and appropriate variation in the form and design of curtilage developments. Wording should be included in the DCP to reflect this.
3. I strongly support the proposed public domain improvements for this Character Area.
4. I am concerned that the boundary indicated for the West End Character Area includes a significant portion of Wickham, but says very little about what is planned for the portion of Wickham north of the current rail corridor that lies within the indicated West End boundary (including substantial parklands). This is unfair to the Wickham community, and should be redressed by either removing the parkland and residential areas in Wickham from the Character Area, or by including relevant planning objectives for this area.

#### 5. Honeysuckle:

1. The stated objective (p.15) to extend the foreshore park westward to form a continuous publicly accessible foreshore from Maryville to Merewether is strongly supported. However, this should be included more emphatically in the principles - the current wording of principle b) does not adequately capture the crucial importance of this objective (I suggest adding wording at the end of the current statement along the following lines: “... and will ensure continuous public access along the waterfront.”) While this has guided development along the harbour waterfront, it is also an important principle to establish in this initial phase of the intended revitalisation of the Cottage Creek waterfront. Continuous public access along the waterfront has been a crucial factor in the success of the initial and ongoing revitalisation of urban waterways, including our own Throsby Creek.
2. This section should also be amended to include an objective to provide a segregated commuter cycleway through the precinct, linking its eastern and western area. This was included in the originally adopted Honeysuckle DCP during the 1990s, but somehow dropped out of subsequent plans, the result of which has been the current inadequate and dangerous shared cycle and parking lane. Reintroducing the objective of a segregated cycleway (at least between Merewether St and Industrial Highway) would give some substance to statements in vol.2, B1. Access Network in relation to encouraging cycling, and the critical need for safe bike networks. The opportunity for this will be soon lost if further development continues in the Honeysuckle area without adequate planning to accommodate commuter cycling (as distinct from the recreational waterfront cycling).

#### 6. Civic:

I strongly support the stated principles for Civic, with the important qualification that achieving Objective b) should not be at the expense of the loss of valuable heritage assets, such as we saw with the destruction of Laman Street's heritage avenue of Hills figs.

#### 7. Parry Street:

See my previous comments under Honeysuckle re the issue of continuous public access to the Cottage Creek waterfront, which is again not adequately captured in the current wording of principle c) for Parry Street.

Otherwise, the principles for Parry Street seem reasonable, if rather limited in aspiration.

#### 8. East End:

1. I strongly endorse the description of this Character Area, and the Principles, again noting that some seem inconsistent with other current plans and proposals (e.g., running a tram down the middle of the Mall is clearly contrary to the stated objective of principle b), to enhance the Mall as a major pedestrian space).
2. The term “significant views” (as used in Principle d)) is problematic. In my view this should be changed to “existing views”, as used in other parts of the Plan where the objective is to protect existing views. If the terms “significant views” is retained, it requires clear definition and greater specificity. What kind of views (panoramas, vistas, view corridors, glimpses, etc), and which ones will be regarded as significant? Developers will argue (as Urban Growth and GPT are now demonstrating), that even large tower developments proposed for this area will not unreasonably compromise significant public views, when it is clear that the impact of such developments on what many Novocastrians regard as significant views will be severe.
3. Principle e) should include ocean and harbour views (along with heritage buildings) as a basis for view protection.
4. This area plays a crucial role in helping to define the city's form (with its morphology rising to the hill and the cathedral), and this should be specifically recognised both in this section, and in a new section on city form (see below).

#### 9. Newcastle Beach:

This section of the DCP should specifically prevent any further high-rise, Gold Coast style beachfront development, which already shadows Newcastle beach, and significantly detracts from the aesthetic quality and experience of the beach front environment.

#### 10. Newcastle East Heritage Conservation Area:

I support the provisions in this section.

#### 11. Foreshore:

I suggest changing the statement “Development must complement the leisure, recreation and heritage uses of the Foreshore area” to read “Development must complement the current leisure and recreation uses and heritage character of the Foreshore area.” It is easy to imagine leisure and recreation oriented activities and developments that would be inappropriate for this area because they would be inconsistent with the nature of current leisure and recreation uses. Also, heritage is a quality or character element, not a use.

#### **GENERAL CONTROLS:**

## 12. Street Wall Heights:

The wording of point c) in A1.01 is too open to subjective interpretation and abuse: what is a “design element”? Are air conditioning units or lift well cabins (common structures for building tops) “design elements”? The requirement for such elements to be visually attractive should be explicit here.

## 13. A6 Heritage Buildings:

1. I strongly support the descriptive text, performance criteria and acceptable solutions outlined in this section. Unfortunately, I think the community will have little faith that the interpretation and application of some of these by consent authorities will be either reasonable or consistent, given that a number of topical development proposals are clearly inconsistent with them (e.g., the proposed tower developments will obviously obstruct and detract from views and sight lines of the Christ Church Cathedral, rather than “maintain and enhance” them).
2. A6.03: I am concerned at the prescriptive nature of point b), in its absolute prohibition on “mimicking” the form and architectural details of heritage buildings. While I agree in general with the proposition that modern alterations and additions to heritage buildings should comprise a “contemporary layer”, I don't believe that this is uniformly the case, or that the Plan should act to actively prevent appropriate attempts to replicate the heritage character of a building in some cases (as the current wording would do).
3. I support the approach identified under “Alternative Solutions” on p.34 for specific development controls or standards for adaptive re-use of heritage buildings.

## 14. B1 Access Network:

1. I agree with the statements (including Performance Criteria and Acceptable Solutions) in this section, though it would be good to see them taken more seriously in their implementation than has been evident from similar commitments in previous plans.
2. B1.05 contains a reference to a separated cycleway “as shown in Figure 6.01-16”. I could not locate that Figure reference (except in vol.1, to an obviously irrelevant figure). If the intended reference is to Photo 6.01-42 (captioned “Example of dedicated cycle lanes”, p.41) I am very concerned. The terms “dedicated cycleway” and “separated cycleway” (and/or cycle lane) are not interchangeable. The “dedicated cycle lane” shown in Photo 6.01-42 is appears, in fact, to be a shared cycle and parking lane, or (as the parked car in the distance indicates) a “car-door death lane”. These are unsafe, and will not encourage cycling. Cycle lanes and cycleways should be physically separated (preferably spatially, but at least by a barrier) from motor vehicle lanes, or they will present the same dangers and problems as Newcastle cyclists currently experience. The kind of lane shown in Photo 6.01-42 should be regarded as a last resort option for accommodating cyclists – it should not be the desired standard.

## 15. B2 Views and vistas:

1. This section needs major attention. The scant and superficial treatment of views and vistas in this section of the Plan is not commensurate with the significance of this issue in relation to development pressures that are already evident in view-sensitive areas of the city, and that

are likely to increase if these tower developments are seen as a precedent for future developments.

2. My previous submission on the City Centre SEPP stated my strong opposition to the removal of the much stronger control on building height and views to and from the Christ Church Cathedral that the SEPP proposes to remove from the text of the Newcastle LEP, and the radically increased height allowances for the three proposed tower sites. Please also note my previous comments (above) on the use of the term “significant views”, which also applies to this section. This section does attempt – albeit partially and generally – to *characterise* such views, stating that they include views from public places towards specific landmarks, heritage items or areas of natural beauty, and identifying views leading to water or landmark buildings, such as Christ Church Cathedral and Nobby's. However, the description lacks necessary specificity, both in terms of what kind of “views” are involved, and which particular views (i.e., from which areas or points to which other areas or points) will be valued (and protected) as significant. Figure 6.01-23 is revealing in this respect, since it demonstrates that the proposed tower buildings (the shaded blocks labelled “potential built form” will significantly affect views to and from the Cathedral. Is this regarded as somehow consistent with statements elsewhere in the Plan (in both the building height section regarding the protection of such views, or in this section, regarding the stated need to preserve significant views)? The caption for Figure 6.01-23 refers to a “view axis” and Photo 6.01-45 to a particular “view corridor”. But the *section* heading suggests that “views” also include the wider, more panoramic views implied by the term “vistas”. If proposals for tall buildings in view-sensitive areas of the city (such as the East End Character Area) are to be considered under this DCP, the controls need to provide a much more specific and sophisticated analysis and treatment of views and vistas, especially as they relate to allowable building heights. Cities that genuinely value public views and vistas reflect this in their relevant development controls (e.g. City of London).
3. The panel titled “Visual Impact Assessment” (p.43) provides no indication of the criteria that will be applied when assessing the impact of proposed developments on affected views.

## **GENERAL COMMENTS:**

### **16. Need for a section on City Form:**

One of the potential downsides of dividing the city in the way the Plan does into various Character Areas, is that elements that integrate the city's built form and define the relationship between its built form and natural topography are lost or under-emphasised, resulting in the potential fragmentation of relevant development controls and the reduction of such considerations in development assessment under the Plan. The Plan does attempt to address this in some sections that deal with inter-connections and boundary issues, but insufficiently to adequately address the significant issue of city form.

Emeritus Prof Barry Maitland (former Prof of Architecture and the University of Newcastle, and an active professional participant in development planning and assessment in the city for many decades), recently spoke on ABC 1233 about the significance of Newcastle's city form and topography in the context of its history of built development. Prof Maitland was discussing this in relation to the (albeit time limited) public discussion and debate about the potential impact of the three tall towers currently proposed in the East End, just north of the Christ Church Cathedral. His key point was that the towers (and the significantly increased height limits designed to accommodate them) represent a radical departure from the approach formerly taken by planners and architects to Newcastle's built form, and that this would have a profound effect on the character of

the city. There has been no similarly informed, professionally experienced counter-argument to justify an approach that represents a radical deviation from established practice, and there appears to be no legitimate planning justification for the DCP to support an approach that would so profoundly and detrimentally affect the character of this area of the city. The trajectory established by the inappropriate intrusion of the proposed three Eastern towers runs completely contrary to the Plan's professed support for protecting the heritage character of the city and significant views and vistas, but is also contrary to established understandings of the considerations that should drive Newcastle's city form.

The significant impact of tall buildings (such as the three proposed towers in the East End area) on city form is widely recognised in the relevant academic and professional literature. The following observation, from *The Environmental Performance of Tall Buildings*, is a typical example of the need to give careful consideration to this relationship:

Regarding impacts on urban form and skyline, the cluster formation allows for flexibility in the composition of buildings, such that the coherence of urban morphology does not depend on specific buildings or locations.

The opposite of planned urban form and city skylines, such as Frankfurt or London, with the cluster of tall buildings indicating the location of the financial district, is the agglomeration of towers across the city, responding in a rather free way to the interests of the market, without regard for any concept of urban form.

Joana Carla Soares Gonçalves, Érica Mitie Umakoshi, *The Environmental Performance of Tall Buildings*, Routledge (June 30, 2010), p. 43-44.

These observations have significant relevance to Newcastle, where the interests of the market are clearly being given preference to considerations of urban form. This deficiency should be redressed by inclusion of an appropriate section on city form in the DCP.

#### 17. Council commitment and consistency:

Newcastle Council has a poor reputation in its own community for its lack of consistency in applying its own DCP provisions in relation to particular development proposals. This has led to significant problems in both development outcomes and in community confidence in the genuineness of council's commitment to its stated planning objectives. In relation to this new DCP, that commitment will be very much on trial in relation to proposals currently under consideration for the three tall towers proposed for view-sensitive sites in the East End Character Area. If council is genuine in its intention to protect significant views and the heritage character of that area, it is difficult to see how it could reasonably support these proposals, which depart significantly from the approach outlined by Prof Maitland.

Thank you again for the opportunity to make these comments.

Regards

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