



City of
Newcastle



CITY OF NEWCASTLE

EXTRAORDINARY PUBLIC VOICE COMMITTEE

Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that an Extraordinary Public Voice Committee will be held on:

DATE: Tuesday 21 September 2021

TIME: 6.00pm

VENUE: Audio visual platform Zoom

J Bath
Chief Executive Officer

**City Administration Centre
12 Stewart Avenue
NEWCASTLE WEST NSW 2302**

14 September 2021

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**EXTRAORDINARY PUBLIC VOICE COMMITTEE
21 September 2021**

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PUBLIC VOICE SESSIONS

ITEM-1 PV 21/09/21 - 292 WHARF ROAD NEWCASTLE - MA2021/00090 - SECTION 4.55(1A) MODIFICATION TO DA2016/00201 - COMMERCIAL PREMISES - CHANGES TO FLOOR PLANS, ELEVATIONS AND CONDITIONS OF CONSENT

APPLICANT: WILSON PLANNING
OWNER: NEWCASTLE CITY COUNCIL
REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE/ MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

A Modification Application (MA2021/00090) has been received seeking to modify DA2016/00201 which gave consent for 'alterations to an existing building and a change of use to cafe, shop, business premises and signage' on 19 July 2016. The Section 4.55(1A) modification proposes changes to floor plans, elevation, and conditions of consent.

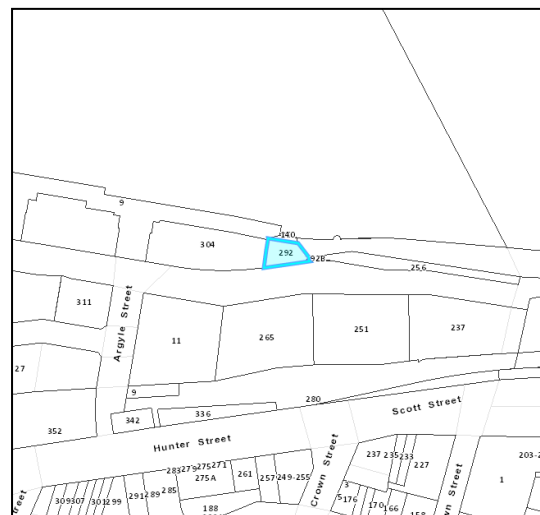
The submitted application was assigned to Development Officer, Thomas Howell, for assessment.

The application was publicly notified in accordance with City of Newcastle's (CN) public participation policy, with 32 submissions being received.

The application is referred to the Development Applications Committee for determination due to the number of objections received.

The concerns raised by the objectors in respect of the proposed development include noise, public safety and increase in anti-social behavior, impact to residential amenity, odour, parking, waste management and number of liquor premises in the area.

A copy of the submitted plans for the proposed development is attached at **Attachment A**.



Subject Land: 292 Wharf Road Newcastle

1.0 THE SITE

The site is known as 292 Wharf Road Newcastle NSW and has a legal description of Lot 1000 in Deposited 1087291. The site is irregular in shape and has a total site area of approximately 380.5m². The site is located along the Newcastle Harbour foreshore with a 29.75m wide frontage to Wharf Road.

The subject site is identified as being flood affected and within the Coastal Environment Area map as prescribed under State Environmental Planning Policy (Coastal Management 2018). The site is also located within a mine subsidence district.

Existing improvements on the site include a detached single-storey commercial building with rotunda-shaped addition to the east. The existing building is a painted masonry structure with metal roofing. The building also incorporates two metal roller doors with a single vehicle crossing fronting Wharf Road.

The site currently operates as "Lynch's Hub" a small takeaway food and drink premises approved under development consent DA2016/00201. The surrounding area predominantly consists of multi-storey residential development to the west and south, multi-story commercial building to the south-east and adjoining the site to the north and east is the Foreshore Footpath and associated public land.

The subject site is flat and contains one significant tree along the Wharf Road frontage.

2.0 THE PROPOSAL

The applicant seeks consent to modify DA2016/00201 which gave consent for *'alterations to an existing building and a change of use to cafe, shop, business premises and signage'* on 19 July 2016. The Section 4.55(1A) modification proposes changes to floor plans, elevation, and conditions of consent.

The proposed modifications include:

- i) Internal floor plan amendments including relocating the cafe server counter to accommodate internal seating and expansion of the café's kitchen into the previous 'rickshaw and bike storage' area.
- ii) Installation of a commercial kitchen to allow the preparation of hot food including a new mechanical exhaust consisting of an extraction fan and exhaust canopy.

iii) Extension of approved hours of operation for the cafe to allow evening trade:

Existing			Proposed	
Monday	7am to 6pm		Monday	7am to 9pm
Tuesday	7am to 6pm		Tuesday	7am to 9pm
Wednesday	7am to 6pm		Wednesday	7am to 9pm
Thursday	7am to 6pm		Thursday	7am to 9pm
Friday	7am to 7pm		Friday	7am to 10pm
Saturday	7am to 7pm		Saturday	7am to 10pm
Sunday	7am to 7pm		Sunday	7am to 9pm

iv) Conversion of the ‘bike workshop’ to a retail shop, selling organic food products as well as other local produce and products.

A copy of the submitted plans is appended at **Attachment A**.

The various steps in the processing of the application to date are outlined in the Processing Chronology appended at **Attachment B**.

3.0 PUBLIC NOTIFICATION

The application was publicly notified for a period of 14 days between 11 March 2021 and 25 March 2021 in accordance with CN's Community Participation Plan (CPP). During the notification period 32 submissions were received.

The concerns raised by the objectors in respect of the proposed development are summarised as follows:

a) Amenity and Social Issues:

- i) Noise – unreasonable transfer of noise to adjoining properties attributable to mechanical ventilation of the proposed commercial kitchen as well as patrons and dispersion of people within the surrounding Newcastle Harbour foreshore area.
- ii) Anti-social behaviour and impact to residential amenity – increase of anti-social behaviour associated with the consumption of alcohol at the site including littering, vandalism, abusive language and damage to property.
- iii) Odour – unreasonable transfer of offensive odours to adjoining residential properties as caused by the proposed commercial kitchen and exhaust.

- iv) Delivery and waste management – inadequate waste management measures and current non-compliance with delivery of goods to the premise outside the permitted 7am to 8pm timeframe.

b) Traffic and Parking Issues:

- i) Increase to traffic and parking congestion within the surrounding road network.

c) Miscellaneous:

- i) Concern raised on the number of licensed premises in the Local Government Area (LGA).
- ii) Hours of operation – the proposed hours of operation will impact on the amenity of the area.

4.0 DEVELOPMENT OFFICER PLANNING ASSESSMENT

The submitted application has been assigned to Development Officer, Thomas Howell for assessment.

The site is located in the B4 Mixed Use zone under Newcastle Local Environmental Plan 2012 (NLEP 2012) and the proposed development is permissible with development consent as 'food and drink premises' which is a type of 'commercial premises'.

The application included a Noise Impact Assessment (NIA) and consideration has been given to the noise impact upon current residential receivers. The report has assessed the operation of the premises against the NSW Environment Protection Authority's (EPA) 'Noise Policy for Industry' (NPfI) noise criteria, which requires the following:

The NPfI specifies two separate criteria designed to ensure existing and future developments meet environmental noise objectives. The first limits intrusive noise to 5dB(A) above the background noise level and the other is based on the total industrial noise in an area in relation to the noise levels from the development to be assessed.

The NIA specifies that the proposed operations of Lynch's Hub can comply with the required acoustic criteria. Further noise control recommendations outlined within the NIA include the installation of acoustic barriers on the exhaust plant and details of the plant to be approved by the acoustic consultant before installation.

Any new commercial kitchen is required to be designed and manufactured to meet the Australian Standards.

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The applicant has provided a Social Impact Comment and Plan of Management (POM), which outlines proposed strategies to mitigate social impacts, including antisocial behaviour and impact to residential amenity that could arise because of the proposed development. This included processes around complaint handling, security, service of alcohol and waste management.

The application was referred to NSW Police who raised no objections with the proposal.

The subject site gains vehicle access via Wharf Road, however, due to the size of the allotment there is limited space for the provision of off-street carparking. A concession for the required car parking spaces was granted at the time of development consent DA2016/00201. The proposed modifications do not generate any additional carparking requirements as approved under development consent DA2016/00201.

The above issues, and matters raised within the received submissions will be addressed in detail within the planning assessment report that shall be referred to the Development Applications Committee for determination.

ATTACHMENTS

Item 1 Attachment A: Submitted plans - 292 Wharf Road Newcastle

Item 1 Attachment B: Processing Chronology - 292 Wharf Road Newcastle

Item 1 Attachments A-B distributed under separate cover