



City of
Newcastle



CITY OF NEWCASTLE

PUBLIC VOICE COMMITTEE

Councillors,

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

DATE: Tuesday 20 August 2019

TIME: 5.30pm

VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

J Bath
Chief Executive Officer

**City Administration Centre
282 King Street
NEWCASTLE NSW 2300**

Tuesday 13 August 2019

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PUBLIC VOICE COMMITTEE
20 August 2019

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PUBLIC VOICE SESSIONS

ITEM-1 **PV 20/08/19 - DA2018/01251 - 150 DARBY STREET, COOKS HILL - MIXED USE, ONE COMMERCIAL AND 9 SHOPTOP HOUSES**

APPLICANT: **ROBERT ADRIAN DAWSON**
OWNER: **THE PROPRIETORS OF STRATA PLAN 88552**
REPORT BY: **GOVERNANCE**
CONTACT: **DIRECTOR GOVERNANCE/ MANAGER REGULATORY, PLANNING AND ASSESSMENT**

BACKGROUND

An application has been received seeking consent for the demolition of a commercial / residential building and construction of a commercial / shop top housing development comprising of a commercial space on the ground floor, nine residential units and associated car parking.

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

The application will be referred to the Development Applications Committee for determination, due to the proposed variation to the building height control of the Newcastle Local Environmental Plan 2012 (NLEP 2012) being more than a 10% variation.



Subject Land: 150 Darby Street Cooks Hill

The application was publicly notified in accordance with the City of Newcastle's (CN) public participation policy and eight submissions were received in response.

The objectors' concerns include:

- i) Height, bulk and scale
- ii) Privacy and overshadowing
- iii) Traffic and parking
- iv) Character and potential impact on the Cooks Hill Heritage Conservation Area

1.0 THE SITE

The site comprises a single allotment with a frontage of 12.2m to Darby Street and a depth of 34.8m, with total area of 427m², known as 150 Darby Street Cooks Hill. A two-storey commercial / residential building (containing two dwellings) currently stands on the site.

The site is located on the north western side of Darby Street adjacent to an unnamed public laneway that provides access to a public at-grade car park at the rear of the site. To the south of the site, at No.152 Darby Street, is a small two-storey terrace building that is used as a restaurant, and to its north is a free standing two-storey building that is used as a clothing retail outlet. The Delany Hotel is located further to the north of the site on the corner of Council Street and Darby Street.

The subject site is located in the Cooks Hill Heritage Conservation Area, at its eastern boundary.

2.0 THE PROPOSAL

The proposal involves the demolition of the building on the site and the construction of a four-storey commercial / shop top housing development.

The proposed development comprises ground floor commercial space (114m²) fronting Darby Street, ground floor parking for 13 cars, nine dwellings on the upper floors and a roof top terrace. The proposed dwellings will consist of six one-bedroom dwellings, one two-bedroom dwelling (plus study) and two three-bedroom dwellings.

Car parking at the ground floor is provided via a local road adjacent to the south-western side of the site (ie. a laneway). Provisions for vehicle parking will consist of 12 car parking spaces provided via double car stackers, one accessible car parking space, one motorbike space and bicycle spaces.

The plans were amended in response to concerns raised by CN officers, issues raised by CN's Urban Design Consultative Group and to address issues arising from public submissions. The amended plans were not renotified, as it was considered that the amended application differs only in minor respects from the original application and does not result in greater environmental impact. A copy of the amended 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 in accordance with CN's public participation policy. Eight submissions have been received.

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

a) Statutory and Policy Issues:

- i) Non-compliance with the height control
- ii) Bulk and scale (including floor space ratio)

b) Amenity Issues

- i) Privacy impacts due to the communal rooftop terrace
- ii) Overshadowing

c) Traffic and Parking Issues

- i) Parking – the proposal will have insufficient parking and will impact on surrounding streets
- ii) Traffic – the proposal will have negative traffic and congestion impacts

d) Miscellaneous

- i) Heritage – concerns were raised that the modern design of the proposed building does not suit the character of the area and regarding the lack of a Statement of Heritage Impact

4.0 DEVELOPMENT OFFICER PLANNING ASSESSMENT

The submitted application has been assigned to Senior Development Officer David Paine for assessment.

Key issues raised during the initial assessment of the current proposal relate to:

- a) Non-compliance with NLEP 2012 height provisions, overshadowing and privacy impacts.
- b) The proposal has a height of 17m and exceeds the height limit of 14m by 3m, largely due to the inclusion of a roof top terrace and the lift overrun. The applicant has submitted a Clause 4.6 variation request which is considered to address height, overshadowing and privacy.
- c) Traffic and parking – The proposal provides 13 car parking spaces which are considered acceptable in terms of traffic and compliance with the parking provisions of the Newcastle Development Control Plan 2012 (NDCP 2012)
- d) Heritage – A Statement of Heritage Impact has been submitted which demonstrates that the proposal is acceptable in relation to heritage impact.

The above issues will be addressed in an assessment report to the Development Applications Committee.

ATTACHMENTS

Item 1 Attachment A: Submitted Plans - Under Separate Cover – 150 Darby Street Cooks Hill

Item 1 Attachment B: Processing Chronology – 150 Darby Street Cooks Hill

Item 1 Attachment A

Submitted Plans under Separate Cover - 150 Darby Street Cooks Hill

Attachment B

THE CITY OF NEWCASTLE
Briefing Note to Public Voice Committee Meeting on 20 August 2019



PROCESSING CHRONOLOGY

DA2018/01251 – 150 DARBY STREET COOKS HILL

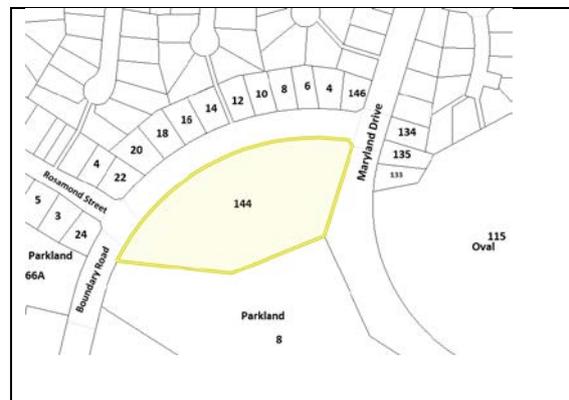
- 2 November 2018 - Application lodged
 - 5 November 2018 - Public notification
 - 8 January 2019 - Applicant advised of issues raised after assessment of the application and through public submissions
 - 3 April 2019 - Additional information received from applicant
 - 17 April 2019 - Second visit to Urban Design Consultative Group meeting
-

ITEM-2 PV 20/08/19 - DA2018/01191 - 144 MARYLAND DRIVE, MARYLAND - ALTERATIONS/ADDITIONS TO MARYLAND SHOPPING CENTRE & NEW TAVERN

APPLICANT: EXPONENTIAL HOLDINGS PTY LTD
OWNER: EXPONENTIAL HOLDINGS PTY LTD
REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE/ MANAGER REGULATORY, PLANNING AND ASSESSMENT

BACKGROUND

An application has been received seeking consent for alterations and additions to the Maryland shopping centre, consisting of partial demolition works, construction of new tavern to replace the current tavern, refurbishment of the shopping centre, change of use of two current tenancies to be commercial premises, carpark upgrade, new landscaping and signage.



Subject Land: 144 Maryland Drive Maryland

The application will be referred to the Development Applications Committee for determination, due to the application being called in by two Councillors.

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

The original proposal was publicly notified in accordance with the City of Newcastle's (CN) public participation policy and fifteen submissions (inclusive of one late submission) objecting to the application were received. Three petitions were received, with two of the petitions objecting to the application, with 69 and 23 signatures respectively. The third petition (44 signatures) was supportive of the application.

Additional information and amended plans were received in response to matters raised during the assessment of the application.

The changes did not warrant re-notification in accordance with CN's public participation policy.

The key issues arising from the submissions include:

- (i) Proximity of new tavern to residential properties
- (ii) Visual and acoustic privacy impacts
- (iii) Safety and security
- (iv) Anti-social behavior
- (v) Odour emission – cigarette smoke and kitchen operations
- (vi) Landscaping / tree removal
- (vii) Property values affected
- (viii) Childcare centre is not appropriate and not needed (over-supply)

1.0 THE SITE

The subject site comprises one allotment described as Lot 512 DP 717019, known as No.144 Maryland Drive Maryland. The lot is slightly irregular in shape, having three boundaries as it wraps around Boundary Road and Maryland Drive with public recreation land adjoining the other boundaries. The site is located on the south side of Boundary Road and the west side of Maryland Drive. The lot has street frontages of 78 metres (Maryland Drive) and 231 metres (Boundary Road) and an area of 1.392 hectares.

The site is currently occupied by the Maryland shopping centre, bounded by public recreation land to the south. Properties to the north (across Boundary Road) and partially to the east (across Maryland Drive) are residential properties, while other public recreation land is located to the south-east (across Maryland Drive). Vehicular access to the shopping centre site, for customers, is via Maryland Drive and, for deliveries, via loading dock facilities off Boundary Road, at the western end of the site frontage to Boundary Road.

The site is relatively flat and sits below the road within the north-northeastern section of the site, around the intersection of Boundary Road and Maryland Drive.

The site is identified as flood prone land, but that constraint does not present any significant impacts on maintaining and upgrading the existing shopping centre facilities.

2.0 THE PROPOSAL

The applicant seeks consent for alterations and additions to the Maryland shopping centre. A summary of works includes:

- a) Some demolition works
- b) Construction of a building on the north east corner of the site for relocation of the existing tavern (characterised as a 'pub' for planning purposes)
- c) Refurbishment of shopping centre
- d) Change of use to Shop No.6, from a gym to a commercial premise, and Shop No.13, from a pub to a commercial premise
- e) Upgrade / formalisation of the carpark (proposed 151 car parking spaces, 10 space bicycle rack and two motorbike spaces) and its entrance
- f) New landscaping works and advertising signage

The plans were amended in response to issues raised by CN staff during the assessment of the application. The submitted information included amended acoustic reports, amendments and additional plan detail relative to the design of the development, floor plans, including the proposed tavern, amendments to the perimeter acoustic fencing to secure the site and assist in the mitigation of noise from the proposed tavern and amendments within the car parking area to address traffic, parking, access and safety requirements.

The proposed relocated tavern operational hours have been amended and reverted back to the approved trading hours of the existing tavern. The proposal includes the following operational hours:

- i) Hours of operation – Monday to Saturday, 10:00am to 12:00 midnight, and Sunday, 10:00am to 10:00pm.
- ii) Hours of live music and entertainment – Monday to Saturday, 10:00am to 11:00pm, and Sunday, 10:00am to 9:00pm.

A copy of the amended 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 originally publicly notified in accordance with CN's public participation policy. A total of fifteen submissions were received objecting to the proposal, including one submission received after closing of the notification period.

Three petitions were received, with two of the petitions objecting to the application, with 69 and 23 signatures respectively. The third petition (44 signatures) was supportive of the application.

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

a) Amenity Issues

- i) Visual and Acoustic privacy
- ii) Safety and security
- iii) Anti-social behavior
- iv) Smoking and food odours

b) Design and Aesthetic Issues

- i) Design / placement of tavern outdoor beer garden areas

c) Miscellaneous:

- i) Economic and property values
- ii) Potential property damage
- iii) Future childcare centre inappropriate, due to existing over-supply and non-compliant

4.0 DEVELOPMENT OFFICER PLANNING ASSESSMENT

The submitted application has been assigned to Senior Development Officer Amanda Gale for assessment.

The proposal is a permissible land use within the B2 Local Centre zone.

The existing developed site will remain as an operating shopping centre to service the needs of the local community. There are two proposed changes to the use of the premises as outlined above in the proposal description. Shop No.13, currently operating as a tavern (pub), is proposed to be used for commercial premise purposes, with the pub use proposed to be relocated to a new building located at the front north eastern corner of the site (intersection of Boundary Road and Maryland Drive). Submissions received have raised concerns regarding Shop No.13 being used for a childcare centre and these concerns related in summary to an over-supply of existing centres, inappropriate use in proximity to a tavern and questionable compliance with relevant requirements/standards for childcare centres. These concerns are noted, though the current application does not include the use of Shop No.13 for a childcare centre. Any future proposal to use the tenancy as a childcare centre would require a separate development application.

The key areas of concern with this application relate to the potential amenity impacts through relocation of the tavern premises to a new building located in closer proximity to adjoining residential properties located across Boundary Road and Maryland Drive. The assessment has also raised the potential for adverse visual

impact on the streetscapes of both Boundary Road and Maryland Drive from the extent of proposed perimeter acoustic fencing at these street frontages. The latest amended plans have made further amendments to the extent, articulation and height of this perimeter fencing treatment.

Amended acoustic reports have been submitted to satisfy acoustic requirements.

The application originally included an increase in operating hours for the tavern generally and for live music and entertainment. In response to concerns raised regarding amenity impacts, the proposal has been amended to reinstate current approved operating hours for the existing tavern, as outlined in the above proposal description.

In relation to traffic, access and parking the proposal is generally consistent with relevant requirements.

The application was referred to NSW Police and Licensing and no objection was raised with respect to the proposed development. NSW Police advice did request that Council give due consideration to the effects of noise that may be emitted from the premises and recommended conditions be placed on the licensed premises. Recommended conditions related to:

- a) Operational management during amplified entertainment or music be kept indoors and with windows/doors closed
- b) CCTV conditions
- c) A limit on patron numbers and no trading past 12:00 midnight.

The above issues, along with issues raised in submissions will be addressed in an assessment report to the Development Applications Committee.

ATTACHMENTS

Item 2 Attachment A: Submitted Plans – Under Separate Cover - 144 Maryland Drive Maryland

Item 2 Attachment B: Processing chronology – 144 Maryland Drive Maryland

Item 2 Attachment A

Submitted Plans - Under Separate Cover - 144 Maryland Drive Maryland

Attachment B

THE CITY OF NEWCASTLE
Briefing Note to Public Voice Committee Meeting on 20 August 2019



PROCESSING CHRONOLOGY

DA2018/01191 – 144 MARYLAND DRIVE MARYLAND

- 19/10/2018 - Application lodged
 - 22/10/2018 - Public notification
 - 23/10/2018 &
30/10/2018 - Referrals to State agencies
 - 16/11/2018 - Advice received from Department of Primary Industries (Water)
 - 26/11/2018 - Application called in to DAC by two Councillors
 - 29/11/2018 - Advice received from NSW Police and Licensing
 - 06/12/2018 - Advice received from Ausgrid
 - 21/01/2019 - Request for additional information to address noise issues
 - 25/03/2019 - Consolidated request for additional information
 - 3/04/2019 &
15/04/2019 - Requests for additional information
 - 22/05/2019 - Additional information received
 - 17/06/2019 - Additional information received
 - 10/07/2019 - Additional information received
 - 12/07/2019 - Additional information received
-

ITEM-3 PV 20/08/19 - DA2015/0876.02 - 29 LAMAN STREET COOKS HILL - CHANGES TO FLOOR PLAN LAYOUT, WINDOWS & ELEVATIONS

APPLICANT: OCEANIA CLARKE PTY LTD
OWNER: LGST PTY LTD
REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE/ MANAGER REGULATORY, PLANNING AND ASSESSMENT

BACKGROUND

A modification application has been received seeking approval for alterations and additions to the approved and constructed residential flat building on the site.

Development Consent (DA2015/0876) was granted on 24 May 2016 for a three-storey building (plus basement), comprising of 11 serviced apartments, and strata subdivision. This development consent has been subsequently modified on one prior occasion.



Subject Land: 29 Laman Street Cooks Hill

A modification to the development consent (DA2015/0876.01) was approved on 27 November 2017, for a number of internal changes to apartment layouts, basement car park and building elevations. Notably, the western elevation (facing the neighboring property at No.33 Laman Street) was amended by deleting several windows and all the balconies on that elevation.

A further development consent (DA2017/00750) for the subject site was approved on 6 December 2017, to change the use of the serviced apartments to residential apartments. No building works were proposed as part of this application.

An Interim Occupation Certificate has been issued for the majority of the units within the development. The inconsistencies between the currently built structure and the approved plans are the subject of the current modification application.

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

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

The application was publicly notified in accordance with City of Newcastle's (CN) public participation policy, with all previous submitters also being notified. 59 submissions and 5 public voice applications have been received.

The concerns raised by the objectors in respect of the proposed development are broad in nature, as described below.

1.0 THE SITE

The site is zoned R3 Medium Density Residential under the Newcastle Local Environmental Plan 2012. The use of the site is approved as a Residential Flat Building which is a permissible use in the zone, with consent.

The subject site is a triangular parcel of land that has frontages to both Laman Street to the north and Glovers Lane to the south-east. The current development provides level access to both street frontages, maintaining pedestrian only access to and from Laman Street.

2.0 THE PROPOSAL

The applicant seeks retrospective consent for the following works:

- a) Alteration to lobby windows fronting Glovers Lane, to each level;
- b) Extension of ground level deck at north-western corner unit;
- c) Installation of maintenance deck to breezeway on ground and first floors, on western elevation;
- d) Re-orientation of layout of second floor unit including new bedroom and bathroom windows to west elevation;
- e) Extension of south facing deck for second floor unit;
- f) Change to roof slope and increase in roof height (550mm);
- g) Installation of air conditioning units along the western elevation at ground level;
- h) Installation of ventilation to west wall of basement; and
- i) Minor changes to internal unit layouts.

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 in accordance with CN's public participation policy, with all previous submitters also being notified. 59 submissions and 5 public voice applications have been received.

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

a) Statutory and Policy Issues

- i) Lawfulness of application seeking retrospective approval for building works.
- ii) Compliance with State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.
- iii) Compliance with Newcastle Development Control Plan 2012.

b) Amenity Issues

- i) Increased privacy impacts (overlooking) from unauthorised windows on the western elevation and upper floor balcony.
- ii) Increased overshadowing as a result of increased roof height.
- iii) Noise impacts from air conditioning units.
- iv) Noise impacts from unauthorised balcony.
- iv) Reduced landscaping on site.

c) Design and Aesthetic Issues

- i) Bulk and scale of development and impact on the heritage character of neighbourhood.
- ii) Increase in floor area.

d) Miscellaneous

- i) Removal of trees in road reserve along Glovers Lane.
- ii) Use of residential units.
- iii) Potential use of the site as a hotel or serviced apartments and associated noise and anti-social behavior.

4.0 DEVELOPMENT OFFICER PLANNING ASSESSMENT

The submitted application has been assigned to Senior Development Officer William Toose for assessment.

The submitted modification application seeks retrospective planning consent for works that have been completed. A modification application, under the provisions of Section 4.55 of the *Environmental Planning and Assessment Act 1979*, is able to lawfully seek planning approval for works that have already been completed.

A change of use from serviced apartments to a residential flat building was approved under DA2017/00750 and that approved use remains unaltered by the proposed modification.

The proposed modification application does not change the number of residential apartments or bedrooms within the building.

The roof slope and overall height increase are considered minor and negligible in the context of the whole development and its overshadowing impacts to neighbouring properties.

An acoustic assessment has been undertaken for the air conditioning units on the western elevation at ground floor, whereby it was determined that the equipment was operating within acceptable noise levels.

The unauthorised deck on the upper level offers views into neighbouring gardens. Planter boxes and 1.5m high privacy screens are proposed, in order to restrict overlooking from this area.

Trees that have been removed within Glovers Lane reserve were required to be removed as part of the *Roads Act 1993* approval issued by CN, to facilitate required infrastructure.

ATTACHMENTS

Item 3 Attachment A: Submitted Plans – Under Separate Cover - 29 Laman Street Cooks Hill

Item 3 Attachment B: Processing Chronology – 29 Laman Street Cooks Hill

Item 3 Attachment A

Submitted Plans - Under Separate Cover - 29 Laman Street Cooks Hill

Attachment B

THE CITY OF NEWCASTLE
Briefing Note to Public Voice Committee Meeting on 20 August 2019



PROCESSING CHRONOLOGY

DA2015/0876.02 – 29 LAMAN STREET COOKS HILL

- 3 April 2019 - Modification application submitted
 - 11 April 2019 - Public notification
 - 13 June 2019 - Additional information and amended plans submitted
-