

**ITEM-20: DAC 16/06/2020 – DA2019/01255 – 25 LLEWELLYN STREET  
MEREWETHER - VETERINARY HOSPITAL**

**APPLICANT: PERCEPTION PLANNING**  
**OWNER: A.T.O.S. PTY LTD**  
**NOTE BY: GOVERNANCE**  
**CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY,  
PLANNING AND ASSESSMENT**

## PART I

### PURPOSE

An application has been received seeking consent for a veterinary hospital (change of use from a commercial premise) at 25 Llewellyn Street, Merewether.

The submitted application was assigned to Development Officer Fiona Dowler.

The application has been called in by Councillor Elliot and Councillor Church to be determined by the Development Applications Committee.

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



**Subject Land: 25 Llewellyn Street  
Merewether**

The proposed development was publicly notified in accordance with City of Newcastle's (CN) Public Participation Policy and seven submissions have been received in response. The objectors are concerned that the proposed use is not appropriate in a building containing residential units. Other concerns relate to disease, noise, waste management, use of common property, traffic and parking issues.

The proposal was considered at a Public Voice Committee Meeting held on 17 March 2020 where areas of concern raised by objections were discussed in further detail including noise, waste management, conflict of uses and parking issues.

The application was considered at the Development Applications Committee Meeting held on 19 May 2020. The proposal was supported to lay on the table to seek further information from the applicant. The amendments to the application were to remove the cat boarding and restrict the basement car parking to staff use only. The Plan of Management and Statement of Environmental Effects have been amended accordingly. The amended proposal was subsequently re-notified, and three submissions were received.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Planning Assessment at Section 5.0.

### Issues

- 1) Public submissions (involving concerns relating to noise, waste management, use of common property, traffic and parking issues).
- 2) Development Applications Committee (involving concerns relating to cat boarding and use of basement car park).

### Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is considered to be acceptable subject to compliance with appropriate conditions.

### Recommendation

- A. That DA2019/01255 for Veterinary Hospital – change of use from a commercial premise at 25 Llewellyn Street Merewether be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- B. That those persons who made submissions be advised of CN's determination.

### Political Donation / Gift Declaration

Section 10.4 of the *Environmental Planning and Assessment Act 1979* requires a person to disclose "*reportable political donations and gifts made by any person with a financial interest*" in the application within the period commencing two years before the application is made and ending when the application is determined. The following information is to be included on the statement:

- a) all reportable political donations made to any local Councillor of Council; and
- b) all gifts made to any local Councillor or employee of that Council.

The applicant has answered NO to the following question on the application form: *Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

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## PART II

### 1.0 THE SUBJECT SITE

The site is located at 25 Llewellyn Street, Merewether. The existing building comprises a mixed-use development, with ground floor commercial premises, basement car parking, and 37 residential units above. A ground floor premise at the rear of the site is currently occupied by a large childcare centre, and there is a small pharmacist fronting Llewellyn Street.

The site is located within a business precinct of Merewether which has a range of commercial uses including a supermarket, cafes and take-away restaurants, childcare centre, medical centres, pharmacy, newsagency and post office, located along Llewellyn Street. The area around Merewether Street consists mainly of single and double storey dwellings with ancillary structures. Adjoining the site to the western (rear) boundary is the Merewether Bowling Club. Merewether Fire Station is located on the northern side of Llewellyn Street.

A number of new mixed-use developments have been approved in the area or have been recently constructed.

### 2.0 THE PROPOSAL

The applicant seeks consent for a Veterinary Hospital – (change of use from commercial premises) including an internal fit out of the existing vacant commercial premises on the ground floor of the mixed-use building. The proposal also includes the following:

- a) Waiting and reception room
- b) Two consult rooms
- c) One radiography / imaging room
- d) One treatment and recovery room
- e) One surgery and one surgery preparation room
- f) One isolation room
- g) Pharmacy, clinical pathology, staff, office and storage rooms
- h) Laundry and WC
- i) Grooming and dog run rooms
- j) Business identification signs

Following the Development Applications Committee Meeting held on 19 May 2020 and subsequent consultation with CN, the proposal was amended to remove cat boarding and restrict the basement car parking to staff use only.

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

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to **Attachment C**).

### **3.0 PUBLIC NOTIFICATION**

The original application was publicly notified for a period of 14 days in accordance with CN's Public Notification Policy and seven submissions were received.

Following on from the Development Applications Committee meeting held 19 May 2020, the application was publicly re-notified for a period of 14 days in accordance with CN's Public Notification Policy and three 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) The site is not suitable for a veterinary hospital given the residents above.

**b) Amenity Issues**

- i) Noise from barking dogs and meowing cats
- ii) Disease
- iii) Waste Disposal
- iv) Use of the common area

**c) Traffic and Parking Issues**

- i) Concerns about potential traffic and parking issues.

### **Development Applications Committee**

The proposal was considered at a meeting of the Development Applications Committee held on 19 May 2020. Following the Development Applications Committee Meeting and subsequent consultation with CN staff, the proposal was amended in order to reduce the impacts to the residences within the building. The proposed amendments involved removing cat boarding and allocating the use of the basement car park for staff only. The current amended documents were subsequently re-notified. The objectors' concerns are addressed under the relevant matters for consideration in the following section of this report.

### **4.0 INTEGRATED DEVELOPMENT**

The proposal is not '*integrated development*' pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979*.

### **5.0 PLANNING ASSESSMENT**

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

## 5.1 Provisions of any environmental planning instrument

### **State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)**

SEPP 55 provides that prior to granting consent to the carrying out of any development on land the consent authority is required to give consideration to whether the land is contaminated and, if the land is contaminated, whether the land is suitable for the purpose of the development or whether remediation is required.

The subject land is currently being used for mixed use purposes and CN's records do not identify any past contaminating activities on the site. The proposal is considered to be acceptable having regard to this policy.

### **State Environmental Planning Policy No 64 — Advertising and Signage (SEPP 64)**

The proposed signage is acceptable having regard to SEPP 64 requirements and the nature of the development, with the key criteria discussed below.

#### Schedule 1 Criteria

##### Character of the area

The proposal is for window signage. The signage is not incompatible with existing signs in the area. The development is consistent with the Newcastle Development Control Plan 2012 (NDCP 2012) and as such meets the requirements for the future character of the area.

##### Special areas

The site is not located within a heritage conservation area and the proposed signage is considered satisfactory.

##### Views and vistas

The development does not detract from any important views.

##### Streetscape, setting or landscape

The scale and proportion of the signage is consistent with existing signage in the area. The development will not unreasonably dominate the streetscape or detract from other signage within the area.

##### Site and building

The proposed signage is compatible with the scale, proportion and other characteristics of the site and will not detract from any important features of the site or any buildings.

Associated devices and logos with advertisements and advertising structures

No ancillary devices are proposed to be installed on the sign structures.

Illumination

No illumination is proposed.

Safety

The location of the signage is consistent with other signage in the area and is not considered to have any major safety implications for the area.

Heritage

The site is not located within a heritage area adjacent to any heritage items and is considered satisfactory in this regard.

**Newcastle Local Environmental Plan 2012 (NLEP 2012)**

The following summarises an assessment of the proposal against the provisions of the NLEP 2012 that are primarily relevant to the proposed development.

Clause 2.1 - Land Use Zones

The subject property is included within the B1 Neighbourhood Centre zone under the provisions of the NLEP 2012 and the proposed development is permissible with CN's consent.

The proposed development is consistent with the objectives of the B1 zone, extracted below:

- i) To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- ii) To provide for residential development that maintains active retail frontages in order to contribute to a safe, attractive, friendly, accessible and efficient pedestrian environment.*
- iii) To maintain the hierarchy of urban centres throughout the City of Newcastle and not prejudice the viability of centres within Zone B2 Local Centre or Zone B3 Commercial Core.*

Clause 6.1 – Acid Sulfate Soils

The site is affected by Class 4 and 5 acid sulfate soils and the proposed development is considered satisfactory with regard to the provisions of this SEPP.

## **5.2 Any draft environmental planning instrument that is or has been placed on public exhibition**

There is no exhibited draft environmental planning instrument relevant to the application.

## **5.3 Any development control plan**

### **Newcastle Development Control Plan 2012 (NDCP 2012)**

The main planning requirements of relevance in the NDCP 2012 are discussed below.

#### Commercial Uses - Section 3.10

The proposal is within a premise in an existing mixed-use building approved under DA2013/1268. The use provides for an activated street frontage in a business precinct, and waste facilities are immediately adjacent to the premise.

#### Mine Subsidence - Section 4.03

The site is located within a proclaimed Mine Subsidence District and is considered to have deemed approval by Subsidence Advisory NSW.

#### Land Contamination - Section 5.02

Land contamination has been considered in this assessment report, in accordance with SEPP 55.

#### Traffic, Parking and Access - Section 7.03

CN's Development Officer (Engineering) has provided the following comments in relation to the proposal:

*'Sufficient parking is available to accommodate the proposed Veterinary Hospital without impacting the other developments onsite.'*

Six parking spaces have been provided in the basement for the use of the premises. Accordingly, the proposal is acceptable in relation to parking, subject to recommended conditions of consent.

#### Waste Management - Section 7.08

The applicant has prepared a detailed waste management plan, which addresses waste management, waste minimisation, and litter management strategies. Demolition and waste management will be subject to conditions recommended to be included in any development consent to be issued.

Based on the submitted information, the proposal is considered to be acceptable.

### Advertising and Signage - Section 7.09

Window signage – the proposed signage occupies greater than 20% of the glazed window surfaces however it is considered to be of an appropriate scale and position for the premises.

### Public Participation - Section 8.0

The proposal was notified to neighbouring properties for 14 days in accordance with the NDCP 2012. A total of seven submissions objecting to the proposal were received.

Following the Development Applications Committee Meeting held on 19 May 2020 and subsequent consultation with CN staff, the proposal was re-notified for 14 days in accordance with the NDCP 2012. A total of three submissions objecting to the proposal were received.

Comments are provided in Section 5.8 below.

### **5.4 Planning agreements**

No planning agreements are relevant to the proposal.

### **5.5 The regulations (and other plans and policies)**

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. In addition, a requirement to comply with AS2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

No Coastal Management Plan applies to the site or the proposed development.

### **5.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

Impacts upon the natural and built environment have been discussed in this report in the context of relevant policy, including NLEP 2012 and NDCP 2012 considerations. In addition, the following impacts are considered relevant:

#### Traffic and Parking

The applicant has submitted a traffic report to address the parking requirements and provisions onsite. Six parking spaces are available for use on site, with plans being submitted showing the location of the spaces within the basement parking area. Access will be available to staff only via an access card.

The proposal has been assessed by CN's Development Engineer and is considered acceptable as sufficient parking is available to accommodate the Veterinary Hospital without impacting on the other uses within the complex.

### Acoustic, odour and waste impacts

The proposal has been assessed by CN's Environmental Protection Officer and is considered to be acceptable subject to conditions of consent regarding hours of operation, noise, air impurity, restrictions on the number of animals boarding, waste, CCTV and implementation of the Plan of Management.

The applicant has submitted an acoustic report to address the potential impacts of the development. The officer's assessment is included below in regard to noise:

*'Considering the 300m thickness of the concrete floor separation and providing that ceiling upgrade measures are implemented and certified by an acoustic consultant prior to an occupation certificate, the ESU considers that the proposal is unlikely to cause unacceptable noise impacts on nearby residential premises.'*

*Site management by the Veterinary Clinic and the strata / body corporate will play an integral role in maintaining an appropriate acoustic amenity of the site. The ESU recommends that in the event of a complaint from a residence, that the Strata refers to their own by-laws in the first instance (under the Strata Schemes Management Act 2015). The Plan of Management provided to support the application also states that CCTV is available on the premises which may aid in resolving any potential noise complaints in the future.'*

It is considered that the proposed development is compatible with the existing developments in the area and will not have any undue adverse impact on the natural or built environment, nor will not have any negative social or economic impacts.

### **5.7 The suitability of the site for the development**

The site is within a Mine Subsidence District and the proposed development is considered to have deemed approval by Subsidence Advisory NSW.

The constraints of the site have been considered in the proposed development, which includes flooding, contamination, and acid sulfate soils.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

### **5.8 Any submissions made in accordance with this Act or the regulations**

The application was notified in accordance with CN's Public Participation Policy and seven submissions were received during the initial notification period. Following on from the Development Applications Committee Meeting held 19 May 2020, the application was publicly re-notified for a period of 14 days and three submissions were received.

The key issues raised within the submissions have been discussed previously in this report. The following table provides a further summary of the issues raised from the submissions as well as discussions from the Public Voice Committee Meeting and a response to those issues.

Issue	Comment
Noise	<p>Potential noise impact has been considered by CN's Environmental Services Unit and appropriate conditions of consent are to be included to minimise any impact. An Acoustic report was submitted with the application and consideration was made regarding the impact of animals making noise on the premises. In addition, the applicant addressed the Public Voice Committee Meeting and explained the behaviour of animals in their current premises, how the cat boarding will operate, and the materials and fit out of the premises and how these will also assist in minimising noise transmission. Cat boarding was subsequently removed from the proposal following the Development Applications Committee Meeting.</p> <p>Conditions are recommended regarding suitable hours of operation; and a requirement for the applicant to undertake ceiling upgrades to achieve sufficient noise attenuation. The Plan of Management (POM) submitted after the Public Voice Committee Meeting provides direct contact details for complaints / concerns and will be included in the 'approved documents' as part of any development consent.</p>
Disease	<p>Veterinarians are required to operate in a clean hygienic environment for the safety of animals, staff and people attending the hospital. The use will operate in accordance with the requirements of the NSW Veterinarian Surgeons Boards and such premises are regularly audited.</p>
Risk (animal attacks)	<p>The POM indicates all animals are to be kept on leads or within carriers / cages whilst entering and exiting the clinic.</p>
Odours	<p>Veterinarians are required to operate in a clean hygienic environment and waste will be removed on a regular basis to eliminate any odours.</p>
Animals on common property (lifts, car park)	<p>The use of lifts and the car park by customers will be limited. The main entrance to the premises will be via the public street from Llewellyn Street and as such use of the lifts and car park area is expected to be minimal. The carpark area will be restricted to staff only.</p>
Waste	<p>A waste management plan was submitted as part of the application and is considered to be satisfactory. This detailed how the waste will be collected from the site by</p>

	a private contractor, and additional overflow only to CN's weekly collection, and includes appropriate measures for deceased animal disposal.
Acoustic Report	The acoustic report, and the modelling used is considered satisfactory and has been reviewed by relevant CN officers. CN requested additional information after the Public Voice Committee Meeting and clarification of the details of the report, which were all addressed satisfactorily.
Traffic Report	The submitted traffic report is considered satisfactory and has been reviewed by relevant CN officers. The proposed use will not cause significant impacts on local traffic volumes.
Parking	The parking provision is considered to comply with the performance objectives of the NDCP 2012. Six parking spaces have been provided on site for the use of staff only, and customer parking is to be accommodated on-street which is acceptable.
Health, hygiene, safety	The POM submitted after the Public Voice Committee Meeting includes provisions for regular inspecting of shared spaces to ensure cleanliness and safety and refers to existing CCTV within the building. The POM is included in the recommended approved documents, and a condition is recommended requiring ongoing CCTV for the premise.
Unsuitable location	<p>The use is permissible within the zone and a mixed-use development has been approved on the site. Detailed consideration has been made to the compatibility of the use in close proximity to the residential units, such as impacts on noise, safety and hygiene. Sufficient information has been submitted with the application to ensure that the use will not have an adverse impact on the existing and future residences in the building.</p> <p>The POM for the use details the services offered on site and how the premises and surrounds will be monitored and managed by the staff on a daily basis. It includes details on the hours of operation, noise, safety, parking, emergencies, disabled access, waste and contact details of staff. The POM will ensure acoustic and social impacts as a result of the use will be minimal.</p>
Impacts on property values	This concern is not a matter of consideration pursuant to Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> .

Proximity to childcare centre	This was raised as an issue during the Public Voice Committee Meeting. The adjacent childcare centre is completely separate from the subject premises and there are no known requirements for operation of a Veterinary Hospital within proximity of a childcare centre.
Transmission of coronavirus from animals	The World Organisation for Animal Health provides information to Veterinary Services regarding risk assessment when a person with COVID-19 reports being in contact with companion or other animals.

### 5.9 The public interest

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

The development is in the public interest and will allow for the orderly and economic development of the site and will provide a local service to the community. The POM that has been submitted with the proposal has detailed how the business will operate with the intent to minimise any social or noise impacts on the community.

### 6.0 CONCLUSION

The proposal is acceptable against the relevant heads of consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in **Attachment B** are included in any consent issued.

### ATTACHMENTS

**Item 20 Attachment A:** Submitted Plans - 25 Llewellyn Street Merewether

**Item 20 Attachment B:** Draft Schedule of Conditions – 25 Llewellyn Street Merewether

**Item 20 Attachment C:** Processing Chronology – 25 Llewellyn Street Merewether

**Item 20 Attachments A - C distributed under separate cover.**