



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 16 February 2021

TIME: 6.00pm

VENUE: Council Chambers
Level 1
City Administration Centre
12 Stewart Avenue
Newcastle West NSW 2302

J Bath
Chief Executive Officer

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

Tuesday 9 February 2021

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PUBLIC VOICE COMMITTEE
16 February 2021

CONTENTS

Item	Business	Page
	APOLOGIES/LEAVE OF ABSENCE	
	DECLARATIONS OF PECUNIARY / NON-PECUNIARY INTEREST	
	PUBLIC VOICE SESSIONS	3
ITEM-1	PV 16/02/21 - 13 & 15 STEEL STREET, NEWCASTLE WEST - DA2020/00766 - PUB - CHANGE OF USE, INCLUDING ALTERATIONS TO THE EXISTING BUILDING AND INTERNAL FITOUT	3
ITEM-2	PV 16/02/21 - 24A JANET STREET, MEREWETHER - DA 2020/01057 - DWELLING HOUSE - ALTERATIONS AND ADDITIONS	9

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PUBLIC VOICE SESSIONS

ITEM-1 PV 16/02/21 - 13 & 15 STEEL STREET, NEWCASTLE WEST - DA2020/00766 - PUB - CHANGE OF USE, INCLUDING ALTERATIONS TO THE EXISTING BUILDING AND INTERNAL FITOUT

APPLICANT: TRAY 3 PTY LIMITED
OWNER: TRAY 3 PROPERTIES PTY LIMITED
REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

A Development Application (DA2020/00766) has been received seeking consent for a pub – change of use from existing food and drink premises and sex service premises, including alterations to the existing building and internal fit out.

The site known as 15 Steel Street, Newcastle West and part of 13 Steel Street, Newcastle West comprises of an existing food and drink premises commonly known as the King Street Hotel.

The application was publicly notified in accordance with City of Newcastle’s (CN) Community Participation Policy (CPP), with two submissions and 12 late submissions being received.

The application is referred to the Development Applications Committee (DAC) for determination, due to the application being called in by Councillor Elliott and Councillor Church.

The concerns raised by the objectors in respect of the proposed development include public safety and increase to anti-social behaviour, noise, impact to residential amenity, lack of public lighting, non-compatible land use and relationship with other land uses.

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



Subject Land: 13 & 15 Steel Street Newcastle West

1.0 THE SITE

The sites are known as 13 & 15 Steel Street, Newcastle West and have a legal description of Lot 1 in Deposited Plan 1127526 and Lot 1 in Deposited Plan 798860, respectively. The sites are regular in shape and have a combined total area of approximately 679m². The sites are located on the northern side of Steel Street with 15 Steel Street being a corner allotment presenting a secondary frontage to King Street. The sites are benefited by a Right of Carriageway at the rear of the sites, gaining access to King Street.

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

Existing on the sites are an attached two-storey and an attached three-storey building built boundary to boundary. The existing buildings are painted brick structures with metal roofing of typical age and architectural style for the area. The site known as 13 Steel Street currently operates as a food and drink premises to the ground floor, Domino's Pizza fronts Steel Street whilst part of the King Street Hotel operates at the rear. The first floor is currently vacant, with the last approved use operating as a sex services premises. The site known as 15 Steel Street wholly operates as the food and drink premises known as the King Street Hotel. The surrounding area predominantly consists of two-storey attached commercial buildings with residential uses to the south, east and west.

The subject site is flat and devoid of any vegetation.

2.0 THE PROPOSAL

The applicant seeks consent for a pub, change of use from existing food and drink premises and sex service premises, including alterations to the existing building and internal fit out.

The proposed works include:

- i) Internal alterations and fit out of existing building (13 Steel Street) for use as a nightclub, including alterations to the internal floor plan to accommodate a ground floor bar, first floor bar and bathroom amenities.
- ii) New openings to the Steel Street frontage and new bifold windows to the eastern elevation (13 Steel Street).
- iii) New ground and first floor internal openings to the adjoining building located on 15 Steel Street.
- iv) The proposed use of the site as a nightclub expands the existing operations of the King Street Hotel currently operating out of 15 Steel Street and part of

13 Steel Street. The existing and proposed maximum number of people permitted in the venue are as follows:

Existing	Proposed
<u>Total: 780 persons</u>	<u>Total: 1,300 persons</u>
380 persons to the ground floor 350 persons combined to the upper floors (15 Steel Street only)	692 persons to the ground floor (13 & 15 Steel Street) 258 persons to the first floor (13 Steel Street) 350 persons combined to the upper floors (15 Steel Street)
Laneway total: 300 persons	Laneway total: 150 persons

The operations of the laneway are restricted to events occurring 10 times per year in accordance with development application approval DA2013/703. The current application does not seek to amend the existing restriction on the number of laneway events.

- v) The proposed operating hours are to align with the existing approved hours of the venue, which are as follows:

Monday	10am to 1am
Tuesday	10am to 1am
Wednesday	10am to 5am
Thursday	10am to 3am
Friday	10am to 5am
Saturday	10am to 5am
Sunday	10am to 12am

Despite the proposed operating hours listed above, the Plan of Management indicates the *usual* trading hours of the King Street Hotel: Friday and Saturday: 9pm to 3:30am with a 1:30am 'no entry' curfew in place as per the Liquor License.

A copy of the submitted plans is at **Attachment A**. The various steps in the processing of the application to date are outlined in the Processing Chronology at **Attachment B**.

3.0 PUBLIC NOTIFICATION

The application was publicly notified for a period of 14 days between 30 July 2020 and 13 August 2020 in accordance with CN's CPP. During the notification period two submissions were received, an additional 12 submissions were subsequently received outside the formal notification period.

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

a) Statutory and Policy Issues

- i) Zoning objectives – does not meet the objectives of the B4 Mixed Use zone and conflicts with surrounding residential uses.
- ii) Lodgement of separate Development Application – multiple development consents operate on the subject site, adjoining property (15 Steel Street, Newcastle West) and laneway.
- iii) Notification – inadequate scope of notification of Development Application.

b) Site and Contextual Issues

- i) Location of subject site and nature of use – non-compatible land use within the context of the Newcastle West precinct which includes sensitive residential uses.
- ii) Relationship with surrounding land uses – dispersion of patrons exiting the premises into the surrounding area and other properties including the 24-hour McDonald's Restaurant and carpark (19 Steel Street, Newcastle West).

c) Amenity and Social Issues

- i) Noise – unreasonable transfer of noise to adjoining properties attributable to amplified music, patrons and dispersion of people within the surrounding Newcastle West 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, nuisance calls and damage to property.
- iii) Crime – increase of alcohol-related criminal activities and violence within an area already experiencing higher than average crime rates.
- iv) Public safety – reduction in public safety and resident's exposure to abusive language and alcohol related violence.

- v) Public lighting – lack of appropriate public lighting within the surrounding area to deter potential anti-social or criminal behaviour.

d) 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 the Newcastle Local Environmental Plan 2012 (NLEP 2012) and the proposed development is permissible with development consent as a 'pub' which is a type of 'food and drink premises'.

The current operations of the King Street Hotel are primarily conditioned under development application approval DA2008/1094. Whilst several subsequent development consents have been issued on the site, CN as an authority cannot dictate how an application is to be lodged. Notwithstanding, multiple development consents are able to operate on the same parcel of land and the granting of further development consent does not operate to invalidate prior consents nor does a development consent take precedence over an earlier approval (unless conditioned to do so).

The application is provided with a Noise Impact Assessment which has been reviewed by CN staff, and consideration has been given to the noise impact upon current and future residential receivers. The report has assessed the operation of the premises against the Office of Liquor and Gaming Authority (OLGA) noise criteria, which requires the following:

- i) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) by more than 5dB between 7:00am and 12:00 midnight at the boundary of any affected residence.*
- ii) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.*

The Noise Impact Assessment (NIA) specifies that the proposed expanded operations of the King Street Hotel are able to meet compliance with the required acoustic criteria. Further noise control recommendations including sound

attenuation glazing, doors and ceiling panels, and the operation of a noise limiter on site are outlined within the NIA and should the application be recommended for approval would be included as conditions of development consent.

The applicant has provided a Social Impact Comment and Plan of Management (POM) within the submitted documentation, which outlines proposed strategies to mitigate social impacts, including anti-social behaviour and impact to residential amenity that could arise as a result of the proposed development.

During the assessment the application has been referred to the NSW Police and considered by the Licensed Premises Reference Group. Concern has been raised by NSW Police regarding the dispersion of patrons and increase to alcohol related crime and violence. However, the NSW Police comments included conditions of consent recommended to mitigate these concerns should approval be granted. 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 - 13 & 15 Steel Street, Newcastle West

Item 1 Attachment B: Processing Chronology - 13 & 15 Steel Street, Newcastle West

Item 1 Attachments A - B distributed under separate cover

ITEM-2 PV 16/02/21 - 24A JANET STREET, MEREWETHER - DA 2020/01057 - DWELLING HOUSE - ALTERATIONS AND ADDITIONS

APPLICANT: JOHN LAWRENCE BENNETT
OWNER: J L BENNETT
REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE/ MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

A Development Application (DA2020/01057) has been received seeking consent for alterations and additions to a dwelling house.

The application was publicly notified in accordance with City of Newcastle’s (CN) Community Participation Policy (CPP), with two submissions and one late submission being received.



Subject Land: 24A Janet Street Merewether

The application is referred to the Development Applications Committee (DAC) for determination, due to the application being called in by Councillor Clausen and Councillor Duncan.

The concerns raised by the objectors in respect of the proposed development include bulk and scale, privacy, solar access, loss to amenity, traffic congestion and parking.

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

1.0 THE SITE

The site is known as 24A Janet Street, Merewether and has a legal description of Lot 2 in Deposited Plan 876622. The site is a battle-axe allotment and has a total site area of 233m². The site is predominantly landlocked, with the battle-axe handle presenting a 1.44m wide frontage to Janet Street (north-east). The subject site is identified as being within a prescribed mines subsidence district and is mapped as being a Coastal Use Area under State Environmental Planning Policy (Coastal Management) 2018.

Existing improvements on the site include a detached single level residential dwelling which is located centrally on the site. The dwelling is a brick veneer structure with tiled roofing being constructed as part of a multi-dwelling development approved under Development Application DA1997/0187. A subsequent Development Application (DA1997/0378) resulted in the Torrens Title subdivision of the approved multi-dwelling development.

The surrounding area predominantly consists of low and medium density residential dwellings, single dwellings adjoin the property to the north, south and east and a residential flat building adjoins the property to the west.

The subject site is relatively flat and devoid of any significant vegetation.

2.0 THE PROPOSAL

The applicant seeks consent for alterations and additions to a dwelling house.

The proposed works include:

- i) Erection of a first-floor addition containing: two bedrooms, one bathroom, living area and roofed deck.
- ii) Internal alterations to the exiting ground level to facilitate the first-floor addition: internal stairs and demolition of internal walls.
- iii) The proposed materials and finishes consist of light-weight cladding and metal roofing.

A copy of the submitted plans is at **Attachment A**. The various steps in the processing of the application to date are outlined in the Processing Chronology at **Attachment B**.

3.0 PUBLIC NOTIFICATION

The application was publicly notified for a period of 14 days between 5-19 October 2020 in accordance with CN's Community Participation Plan (CPP). During the notification period two submissions were received, an additional submission was received outside the formal notification period.

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

a) Statutory and Policy Issues

- i) Floor Space Ratio (FSR) objectives – inconsistent with the objectives of clause 4.4 Floor Space Ratio of the Newcastle Local Environmental Plan 2012 (NLEP 2012).
- ii) Zoning objectives – does not meet the objectives of the R2 Low Density Residential zone.

b) Amenity Issues

- i) Solar access – the proposed development creates unreasonable overshadowing and loss of light to adjoining properties.
- ii) Privacy – the first-floor addition and deck reduces the current privacy and amenity enjoyed by adjoining properties.
- iii) Natural ventilation – the first-floor addition creates loss to natural breezes and ventilation to adjoining properties.
- iv) Outlook – the loss of outlook currently enjoyed by adjoining properties.

c) Design and Aesthetic Issues

- i) Bulk and scale – overbearing nature of the development is inconsistent with the surrounding development and creates unreasonable impact to amenity.

d) Traffic and Parking Issues

- i) On-street parking – the potential increase in occupancy rates will cause additional strain to the congested street parking network.

e) Miscellaneous

- i) Devaluation of properties – loss of surrounding residential amenity will inevitably reduce surrounding property prices.
- ii) Inaccuracies of submitted documentation – the amended plans do not clearly stipulate the proposed changes.

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 R2 Low Density Residential zone under the NLEP 2012 and the proposed development is permissible with development consent as a '*dwelling house*' which is a type of '*residential accommodation*'.

The FSR map provides for a maximum FSR of 0.6:1. The proposed development has a total of 122m² of combined floor space. The proposal results in an FSR of 0.659:1 (based on a site area of 185m²), which exceeds the maximum FSR for the site by 9.91%. The applicant has submitted a clause 4.6 Variation Request seeking to vary the maximum FSR principal development standard.

The proposed development complies with the height of buildings development standard of 8.5m as prescribed by the NLEP 2012, with a maximum height of 7.2m.

The proposed development retains an existing attached single garage providing off-street parking for one vehicle which meets the numerical requirements of the Newcastle Development Control Plan 2012 (NDCP 2012).

Due to the arrangement of the allotment and the siting of the existing dwelling within the site, the allocation of setbacks will be considered on merit during the assessment, with consideration being given to the performance criteria outlined under section 3.02.04 Side / rear setbacks of the NDCP 2012.

The required landscaped area under the NDCP 2012 is 10% of the site area. The proposed development is wholly located over existing hard surface and retains all existing landscaped areas on site.

The submitted overshadowing analysis demonstrate that neighbouring properties will receive solar access to living room windows and private open space. The minimum requirements of the NDCP 2012 specifies that a minimum of three hours of sunlight to windows of living areas that face north and two hours of sunlight to private open space areas of adjacent dwellings is to be provided.

The proposed development is provided with screening to the southern elevation of the first-floor deck, with the deck openings providing spatial separation of 12m to adjoining windows to living rooms and primary private open space areas of properties to the east.

ATTACHMENTS

Item 2 Attachment A: Submitted Plans - 24A Janet Street, Merewether

Item 2 Attachment B: Processing Chronology - 24A Janet Street, Merewether

Item 2 Attachments A-B distributed under separate cover