

# Public Voice Committee Meeting



**DATE:** Wednesday, 26 April 2023

**TIME:** 6:00 pm

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

18 April 2023

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**City of Newcastle**  
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## Agenda

1. ATTENDANCE
2. ACKNOWLEDGEMENT OF COUNTRY
3. PRAYER
4. APOLOGIES / LEAVE OF ABSENCE / REQUEST TO ATTEND BY AUDIOVISUAL LINK
5. DISCLOSURES OF INTEREST
6. REPORTS ..... 3
  - 6.1. 317 WHARF ROAD NEWCASTLE - MA2022/00238 - SEC 4.55(2) MODIFICATION TO DA2013/1236 - DEMOLITION OF BUILDINGS, ERECTION OF EIGHT (8) STOREY HOTEL AND CONFERENCE CENTRE - CHANGES TO DESIGN ..... 3

*For documents marked 'Distributed under Separate Cover' refer to Council's website at <http://www.newcastle.nsw.gov.au/>*

*Note: Items may not necessarily be dealt with in numerical order*

## 6. REPORTS

### 6.1. 317 WHARF ROAD NEWCASTLE - MA2022/00238 - SEC 4.55(2) MODIFICATION TO DA2013/1236 - DEMOLITION OF BUILDINGS, ERECTION OF EIGHT (8) STOREY HOTEL AND CONFERENCE CENTRE - CHANGES TO DESIGN

**APPLICANT:** THE TRUSTEE FOR THE NAVON PLANNING TRUST  
**OWNER:** WHARF ROAD DEVELOPMENTS PTY LTD  
**REPORT BY:** PLANNING & ENVIRONMENT  
**CONTACT:** INTERIM EXECUTIVE DIRECTOR PLANNING &  
ENVIRONMENT / ACTING EXECUTIVE MANAGER,  
PLANNING, TRANSPORT & REGULATION

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#### PURPOSE

A Modification Application (MA2022/00238) has been received seeking to modify the original development consent (DA2013/1236) for the approved demolition of buildings and erection of an eight-storey hotel and conference centre at 317 Wharf Road Newcastle.

The Section 4.55(2) modification application seeks various changes to improve the layout of the building, repositioning of columns and structural elements, and to ensure compliance with relevant building code requirements.



**Subject Land:** 317 Wharf Road Newcastle

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

The application is referred to the Development Applications Committee (DAC) for determination due to the number of submissions received.

The application was publicly notified in accordance with City of Newcastle's (CN) Community Participation Plan (CPP) and 34 submissions were received (30 unique submissions).

The key concerns raised by the objectors in respect to the amended development include:

- i) Building design and appearance
- ii) Lack of separation/setbacks
- iii) Traffic, parking and access

- iv) Visual and acoustic privacy
- v) Solar access
- vi) View loss

Further detail regarding the issues raised by the objectors is provided at **Section 4.0**.

## **1.0 THE SITE**

The site is a single allotment, known as 317 Wharf Road Newcastle (Lot 16 DP 1259851). The site is predominately level, located on the southern side of Wharf Road, with dual frontage to Wharf Road (102.9m) and Centenary Road (106m) and site area of 4,090m<sup>2</sup>.

To the north is an existing commercial / residential waterfront development, including the Rydges Hotel. To the east is 'Argyle House', a single storey building, corner of Wharf Road and Argyle Street. To the west is an existing mixed use multi-storey building, with commercial on ground and residential apartments above. To the south are low rise industrial type buildings and recently constructed mixed use developments on the corner of Merewether Street.

The site is zoned B4 Mixed Use under the Newcastle Local Environmental Plan 2012 (NLEP). The site is affected by mine subsidence, flooding, acid sulfate soils (Class 3) and contamination. The site is within a 'sensitive coastal location', in the Newcastle City Centre and in the Newcastle City Centre Heritage Conservation Area, and adjoins a 'listed' heritage item (Argyle House).

### **Background**

Development consent (DA2016/1236) was granted on 6 May 2016 for the demolition of buildings and erection of an eight-storey hotel and conference centre. The consent was granted a two-year extension in response to the COVID-19 pandemic, where the Government introduced changes to allow economic recovery, with the consent now expiring on the 6 May 2023. A Construction Certificate (CC2022/00809) for demolition, removal of in-ground services and installation of new in-ground services was approved on the 23 September 2022. CN was notified on the 31 March 2023 of the commencement of demolition works and the applicant provided owners/occupiers of neighboring properties with seven days' notice of the commencement of the works.

## **2.0 THE PROPOSAL**

The proposal seeks to improve the layout of the building, repositioning of columns and structural elements, and compliance with relevant Building Code of Australia requirements. In summary, changes are outlined below (extract from the SEE prepared by Navon Planning):

### **Ground Level (Level 1)**

- i) Reconfiguration of ground level car parking to provide 2 additional accessible spaces (parking remains at 21 spaces). Bicycle rack to provide parking for 10 bicycles.

- ii) Accessible ramp to cafe / entrance and amended landscaping scheme.
- iii) Fire escape stairs adjacent to lifts, mechanical and hot water plant room.
- iv) Hydrant and sprinkler pump room and enlarged electricity substation.
- v) Grease arrestors and enlarged loading dock.
- vi) Reconfiguration of ancillary rooms, provision of WC's.

### **Level 2**

- i) Reconfiguration of car parking including enlarged bays (2.5m width). Two motorcycle bays.
- ii) Fire escape stairs adjacent to lifts.

### **Level 3**

- i) Reconfiguration of car-parking including enlarged bays (2.5m – 3.5m width), two accessible spaces, removal of one car-parking space. Two motorcycle bays.
- ii) Fire escape stairs adjacent to lifts and enlarged west facing fire stairs.

### **Level 4**

- i) Airlocks between function rooms and fire stairs. Enlarged WC facilities and reconfiguration of kitchen layouts.
- ii) Mechanical plant room, fire escape stairs adjacent to lifts and enlarged west facing fire stairs.

### **Level 5**

- i) Linen room, mechanical plant room and additional mechanical plant.

### **Level 6 to 8**

- i) Linen room, mechanical plant room and enlarged east facing fire stairs.

### **Roof Plan**

- i) Solar panel system – 180 panels on western roof and 175 panels on eastern roof.

No significant changes are proposed to the facade or elevations of the building, the colour and materials or the operational details of the development.

### **Amendment to Terms of Development Contributions (timing for payment)**

The application seeks to amend Condition 3 of DA2013/1236 to defer the timing of infrastructure contribution payments until the Occupation Certificate stage. The amendment to timing is sought through a Ministerial Direction allowing payment of contributions at Occupation Certificate stage for developments over \$10 million.

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

### **3.0 PUBLIC NOTIFICATION**

The original application was publicly notified in accordance with CN's Community Participation Plan (CPP), for a period of 14 days and closed on 17 August 2022. In response, 34 submissions were received (30 unique submissions).

Several amended plans (refer Sheet 101-D – Ground Floor + Site Plan / Sheet 102-D – Level 2 Plan / Sheet 103-D – Level 3 Plan), a supplementary Parking Impact Assessment and Addendum Acoustic advice were submitted during the assessment process, responding to matters raised by CN staff. These amendments were not required to be notified in accordance with CN's CPP. However, the amended plans were made available on DA tracker.

In summary, the amendments to plan relate to the following areas:

- a) Valet service – no longer proposed.
- b) Parking class – User Class 2 parking standards.
- c) Aisle widths – revised to achieve circulation and turning swept paths standards.
- d) Plug-in Electric vehicle charging stations – 6 car spaces on ground floor nominated for electric vehicle parking.
- e) Parking for servicing.
- f) Boom gates – entry boom gate setback 6.0m from the boundary allowing, minimum one vehicle to stand within the property while awaiting entry.

The concerns raised by the objectors are summarized below:

#### **a) Statutory and Policy Issues**

- i) Separation and setback non-compliances – no setback on the eastern boundary of 335 Wharf Road (Harbour Pier building), no setback to the proposed building fronting Wharf Road, impacting on solar access on the eastern side of 335 Wharf Road.
- ii) The proposal moves the building closer to 335 Wharf Rd therefore extending the building envelope of the size of structure. There is the

opportunity to review the consent and try and achieve a greater setback in respect to a 6m setback for compliance and increased amenity.

- iii) Overall height – breaches to the building envelope. The plan shows 30 metre height limit line, but RL levels are shown exceeding those levels below that height. Deceptive and misleading and is meant to convey compliance with a building under the 30m height limit.
- iv) Heritage impacts – setback extension towards heritage listed Argyle House. The proposal includes moving the hotel eastern main wall 90mm closer to Argyle House. The fire stairs have been modified, increasing the size by 710mm and moving fire stair east. How does this protect the preservation of a listed heritage building.

## **b) Amenity Issues**

Visual privacy – due to closeness of the terraces, privacy will be lost for a number of apartments facing the development, as most apartments have east-facing patios on adjoining 335 Wharf Road. All residents on the eastern side of 335 Wharf Rd will now be exposed to hotel guests.

- i) Acoustic privacy – noise from loading dock location, function room with adjoining terrace – noise and disturbance, lack of appropriate separation / setbacks to adjoining properties and traffic flow, parking and congestion. Noise from function room with adjoining terrace against eastern boundary of 335 Wharf Road, shows little regard for residences at 335 Wharf Road, as functions in these rooms will create noise impacts with gatherings up to / in excess of 100 people. Access by trucks on Centenary Road will pose an intrusive noise problem to all nearby residents unless access hours for such purposes are sensibly restricted (eg. 9am to 4pm on weekdays only).
- ii) Overshadowing – lack of setbacks / separation particularly to 335 Wharf Road.
- iii) Pollution – odour and vehicular fume impacts given scale of development and proximity of development to adjoining properties.
- iv) View loss and breeze corridors - views from the Cross Building will be impacted and from Harbour Pier (335 Wharf Road) – apartments with north to east facing aspects with balconies that are used for recreation as well as windows to access light, views of the city to the east and the lighthouse to the north-east. Apartments will become darker/colder, lose cityscape and possible lighthouse views to the north-east as a result of the size of the building.
- v) Buildings should be setback 10 metres after exceeding lower levels and this requirement has been disregarded. The amendments show the development encroaching slightly more toward 335 Wharf Rd, with this

encroachment and the additional rooftop changes, the envelope of the building has changed.

**c) Design and Aesthetic Issues**

- i) Poor design of building – not sensitively designed. Inadequate separation / setbacks from adjoining properties, given scale and type of development for hotel and conference centre. Proximity to both Harbour Pier Apartments (335 Wharf Road) without setback, yet there is space between the development and Argyle House, which has some buffer from noise with plantings. Increased overshadowing, loss of ventilation and increase in noise levels.
- ii) Concern over aesthetics of the wall that apartments in Harbour Pier (335 Wharf Rd) are facing along the north-east side.
- iii) Loading dock location maximises noise, air and odour impacts. Should relocate towards Argyle Street, less impact on street congestion, noise pollution and disturbance for residents.
- iv) Poor use of materials.

**d) Traffic and Parking Issues**

- i) Traffic flow – the volume of traffic is set to increase further once The Crossing apartments (35 Centenary Rd) open. With 48 additional apartments all accessing their parking from Centenary Road this congestion is set to increase from current levels. The proposal will impact traffic flows along Centenary Road and residential properties will be significantly affected with increased car and truck movements. Centenary Road is narrow, while two cars can pass slowly in different directions, the width of the road will not allow a car and truck to pass. Problems already exist on the corner of Centenary and Merewether Streets, but if the loading dock and building exits were located on the Argyle Street (eastern) end of the building it would alleviate a potentially dangerous mix of vehicle movements.
- ii) Car parking – insufficient parking available for guests at Rydges Hotel, as site currently used as carparking adjacent to 335 Wharf Road and warehouse areas of 315 Wharf Road with access off Centenary Road. This lack of parking will add to the traffic congestion and available parking on Wharf Road.
- iii) Loading dock – the loading dock in Centenary Road, against 335 Wharf Road, creating unwanted noise with truck and forklift movements throughout the day and night. Access by trucks on Centenary Road will pose an intrusive noise problem to all nearby residents unless access hours for such purposes are sensibly restricted (eg. 9am to 4pm on weekdays only).

**e) Miscellaneous**

- i) Previous application for student accommodation complex, referred to the Hunter and Central Coast Joint Regional Planning Panel for approval with same shape building and streetscape. The application was refused for a number of reasons, including the quality / layout of the building and streetscape along Wharf Rd, loss of views and amenities to residents at 335 Wharf Rd as well as unsuitability for the site.
- ii) Insufficient public notification period given to adequately consider the modification application and make a well-informed submission.

**4.0 DEVELOPMENT OFFICER PLANNING ASSESSMENT**

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

In summary, a number of submissions raise issues with the overall development, approved under DA2013/1236. The current application relates to a small number of aspects or areas of amendment, with the development considered substantially the same development as originally approved. The scope of the assessment relates only to those amendments proposed and does not extend to other areas of the development as approved, that do not form part of the modification application.

**a) Statutory and Policy Issues**

Concerns raised regarding separation and setbacks, relate predominately to the original approved development. The application does include an increase in the size of the fire stairs adjacent to the common boundary with 311 Wharf Road (wall length/depth originally 4.6m and now 5.7m - increased by approx. 1.1m) and a reduction in setback of fire stairs to common boundary with 311 Wharf Road (originally 8.590m and now 7.790m - reduced by 800mm).

The amendments include an increase of 200mm in overall building height to accommodate the thickness of the solar panels (proposed as a new component of the application). The maximum height of the development will remain compliant with the 30m height limit for the site.

Further assessment detail will be discussed within the planning assessment to be reported to DAC for determination.

**b) Amenity Issues**

Concerns raised regard visual and acoustic privacy, predominantly relate to the approved development. The proposal includes some additional plant rooms within the building and plant to be located within the rooftop space.

The original development was supported by a Noise Assessment Report prepared by Atkins Acoustics and dated April 2014. Condition 65 (DA2013/1236) requires

appropriate acoustic treatment to be implemented and final certification to be provided confirming implementation in accordance with the recommendations of the Noise Assessment Report. The recommendations also noted that further acoustic assessment would be required in relation to the plant and equipment.

An Addendum Acoustic advice prepared by Atkins Acoustics dated 24 March 2023 was submitted for the current application. Mechanical plant associated with the development has not been selected and no external noise emissions have been assessed. A detailed assessment is to be carried out, to determine appropriate acoustic treatments.

Concerns relating to overshadowing, pollution and view loss primarily relate to the approved development. While the proposal includes some reduction in setbacks, as discussed elsewhere, the amendments are not considered to result in significant change to shadows cast by the approved development. Further assessment detail will be discussed in the planning assessment reported to DAC for determination.

### **c) Design and Aesthetic Issues**

Submissions raised concern regarding the poor design and aesthetics of the approved development, and relate to overall bulk and scale, the number of storeys, the lack of aesthetics of the eight storey blank wall on the eastern side, its close proximity to the common boundary with 335 Wharf Road and the resultant amenity impacts. In addition, concerns over the heritage impact on Argyle House, the visual and acoustic impacts, overshadowing, and view loss.

Whilst these aspects will be further discussed within the planning assessment to be reported to DAC, the application does not involve significant changes to the overall design and aesthetics of the approved development.

### **d) Traffic and Parking Issues**

Submissions received raised concerns with the overall approved development. The traffic congestion already existing within this area and future congestion, the orientation of the development, its building, access and entry/exit for vehicle locations, the location of loading dock facilities, lack of carparking to cater for the development and loss of overflow parking for Rydges Hotel which is informally provided on the site.

In relation to traffic generation, the proposed modifications constitute a reduction in overall gross floor area and slight reduction to on-site parking provision. These amendments do not include any changes that may significantly alter the level of pedestrian and vehicular traffic generation assessed in DA2013/1236.

Submissions received by CN note the development will displace a considerable level of parking that may have been leased to Rydges Hotel (350 Wharf Road / Lot 5001 DP 1049339) for use in its valet parking service to manage parking overflow. Concern is raised about the loss of this parking that may exacerbate demand on existing on-street parking in the local area.

The original development consent issued by the Department of Urban Affairs and Planning for the hotel at 350 Wharf Road (DA 211-06-2000) is not bound by any condition of consent at 317 Wharf Road (Lot 16 DP 1258951). A valet service is referenced only in condition 2.3.1 which stipulated:

*2.3.1 The Hotel operator will operate a valet parking service for parking of vehicles of hotel guests in circumstances where the demand of parking exceeds the on-site parking supply.*

No easements for parking / access burdening the development site are identified on DP 1258951.

The site (317 Wharf Road) is therefore not found to be burdened (beyond private agreements) by overflow parking demand from 350 Wharf Road as a result of the operation of the valet parking service required under DA 211-06-2000.

It is acknowledged that the development of 317 Wharf Road may remove a supply of parking utilised by the existing hotel at 350 Wharf Road. The burden and responsibility to manage this shortfall, lies with the operator of Rydges Hotel to seek alternative parking accommodation to manage its parking requirements in accordance with condition 2.3.1 of DA 211-06-2000.

#### **e) Miscellaneous**

Concern regarding a previous development for student accommodation refused by the Hunter and Central Coast Joint Regional Planning Panel, with a similar design to this development.

The current application relates to amendments to DA2013/1236. The assessment outcome for a separate application / different development has no bearing on the assessment of this application.

Concern was raised regarding limited time given for public notification to adequately consider and make a well-informed submission. The application was publicly notified for 14 days in accordance with CN's CPP. All information lodged and submitted during the assessment process is made available on CN's DA Tracker.

Matters raised in the submissions, will be addressed in the planning assessment to be reported to DAC for determination.

#### **ATTACHMENTS**

**Attachment A: Submitted plans – 317 Wharf Road Newcastle**

**Attachment A – distributed under separate cover**