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 18 October 2016

**TIME:** 5.30pm

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

F Cordingley
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

7 October 2016

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PUBLIC VOICE SESSIONS

ITEM-1 PV REPORT - DA 2014/0296 - 18 BOND STREET, NEWCASTLE - ERECTION OF THREE STOREY DWELLING

APPLICANT: V DART
OWNER: C DART & V DART
NOTE BY: PLANNING & REGULATORY GROUP
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PURPOSE

An application has been received seeking consent to erect a three storey dwelling.

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

The proposal was originally notified to neighboring properties for fourteen (14) days in accordance with Council's policy and fifteen (15) public submissions were received. The application was also notified as "nominated integrated development" for thirty (30) days under the requirements of the EPAA and two (2) submissions were received in response. One (1) Public Voice request was received during the notification period.

1.0 THE SITE

The subject site is formally known as Lot 4 DP 1156117 and is an irregular shaped allotment located on southern side of Bond Street approximately midblock. The allotment has a northern frontage to Bond Street of 11.23 metres, a maximum depth of 24.32 metres and a total site area of approximately 270.1m².

The site slopes towards Bond Street from the southern boundary.

The site was created via a subdivision approved in 2010 (DA 2008/1155) and is bounded by a Council reserve to the north (on the other side of Bond Street), residential and commercial development to the east and south, and the Convict Lumber Yard to the west.

The subject site is a heritage item of State significance (SHR No. 01842 - Enterprise Park and Coutt's Sailors Home (former)); is adjacent to a number of State and Local
heritage listed items, and is located in a coastal location (in accordance with the NSW Coastal Policy 1997).

2.0 THE PROPOSAL

The applicant seeks consent to erect a three storey dwelling.

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

3.0 PUBLIC NOTIFICATION

The proposal was originally notified to neighboring properties for fourteen (14) days and fifteen (15) public submissions were received. The application was notified as nominated integrated development for thirty (30) days and two (2) submissions were received in response. One (1) Public Voice request was received during the notification period.

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

i) Statutory and Policy Issues
   a) **Setbacks** - The proposed development does not comply with front setback (north elevation), side boundary setback (east and west elevations) and rear setback (south elevation) provisions. There is concern the proposed development does not increase in setback from property boundaries as the wall height increases.

   b) **Building envelope** - The proposed development has departures to the single dwelling building envelope provisions, to the east and west elevations.

   c) **Bulk, form and scale** - The proposed development is an overdevelopment of the site, and is incompatible with the relevant objectives of development in a medium density residential zone.

   d) **Landscaping** - The proposed development does not meet the minimum requirements of the DCP for landscaping, that being 10% of the site area.

   e) **Heritage significance** - The proposed development is unsuitable with respect to its location adjacent to the Convict Lumber Yard and the historical significance of the site. A Heritage Conservation Order is requested over site, in order for the site not to be developed.

   f) **Heritage Conservation Area** - The proposed development does not comply with relevant provisions concerning materials and details, vehicular accommodation and infill development in a heritage conservation area.

   g) **Archaeological management** - The site has archaeological significance and excavation may disturb relics.
h) **Impact on adjoining Heritage Items** - The proposed development has a visual impact on the curtilage and heritage significance of the adjoining local and state heritage items.

ii) **Amenity issues**
   a) **View loss** - The impact of the proposed development on views to and from adjoining residences, and non-compliance with view sharing principles.
   b) **Privacy** - Potential privacy and overlooking concerns due to the plan layout and the location of private open space.
   c) **Light and solar access** - The proposed development overshadows adjoining residents, leading to reduction in natural warmth and light.
   d) **Amenity** - The proposed development is considered an unsympathetic modern development, which will disrupt the amenity of the adjoining residences and have a detrimental impact on the character and streetscape of the area.
   e) **Safety and security** - The proposed design will increase the opportunity for vandalism, particularly with respect to the masonry wall fronting Enterprise Park.

iii) **Design and Aesthetic Issues**
   a) **Excavation** - Impact of excavation on adjoining residences with respect to the proximity of the proposed development to adjoining development, foundation instability and possible building damage.
   b) **Masonry wall** - The proposed masonry wall to Enterprise Park is considered too dominant.

iv) **Miscellaneous**
   a) **Newcastle Heritage Strategy and Heritage Policy** - The proposed development is inconsistent with Council's relevant heritage provisions.
   b) **Burra Charter** - The proposed development is inconsistent with the principles of the Burra Charter.

**ATTACHMENTS**

Attachment A: Copy of submitted plans - 18 Bond Street, Newcastle - DA 2014/0296
ITEM-2 PV REPORT - DA 2015/0540 - 18 NERIGAI CLOSE, ELERMORE VALE - ERECTION OF TWENTY FIVE ATTACHED TWO STOREY DWELLINGS, ASSOCIATED SITE WORKS AND TWENTY SIX LOT STRATA SUBDIVISION

APPLICANT: MONTEATH & POWYS PTY. LYD.
OWNER: NERIGAI DEVELOPMENTS PTY. LTD.
NOTE BY: PLANNING & REGULATORY GROUP
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PURPOSE

An application has been received seeking consent for the construction of twenty-five (25) two storey townhouses, strata subdivision, tree removal and associated site works.

The proposed development is 'integrated' development and requires approval from Department of Primary Industries (Office of Water), Mine Subsidence Board and NSW Rural Fire Service.

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

1.0 THE SITE

The subject site is known as 18 Nergai Close (Lot 7 DP 842408) and has frontage to both Nergai Close and Kerry Avenue. The site has an area of 8,370.9m².

The site is located at the end of the Nergai Close cul-de-sac. The frontage contains an existing driveway. A pedestrian footpath is located towards the south of the access. The site is located approximately 1km west of the Elermore Vale Shopping Centre.

The site is currently vacant and consists of partially cleared native forest and woodland with mature trees and some undergrowth. A classified waterway runs through the western corner of the lot. At the end of Nergai Close, bordering the subject site is a footpath that extends south towards Robina Close, alongside the large vegetated reserve.
The land naturally slopes downwards towards the north eastern and western corner of the site and is bordered by a drainage reserve in the east. The land to the west is also a drainage reserve, which runs from the south of the site (Robina Close) to the north of the site (Willow Close). The waterway running through the site drains into this system along the northern boundary. The waterways appear to have been modified as a result of previous developments in the area.

2.0 THE PROPOSAL

The applicant seeks consent for the construction of twenty-five (25) two storey townhouses, strata subdivision, tree removal and associated site works.

The proposal has been amended in response to concerns by Council officers to include a 5.5m wide roadway with a 1.2m wide footpath that will connect Kerry Avenue to Nerigai Close and to address matters raised in submissions.

The proposed development is ‘integrated’ development and requires approval from Department of Primary Industries (Office of Water), Mine Subsidence Board and NSW Rural Fire Service.

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 originally publicly notified for a period of thirty (30) days in accordance with Council’s Public Notification Policy. A total of eighty-two (82) public submissions were received objecting to the proposal.

The proposal has been subsequently amended in response to concerns raised by Council officer and matters raised by adjoining residents. The amended application was publicly re-notified for a period of fourteen (14) days and a total of thirty-four (34) submissions were received in response, which included three (3) Public Voice requests.

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

i) Statutory and Policy Issues
   a) **Density** - There are too many dwellings proposed resulting in an overdevelopment of the site.
   b) **Land zoning** - Inappropriate form of multi-dwelling development in the R2 Low Density Zone.

ii) Amenity Issues
   a) **Overshadowing** - Overshadowing of properties located to the south of the site in Robina Close.
   b) **Privacy** - Overlooking of properties in Robina Close.
c) **View loss** - Obstruction of views and loss of outlook to neighboring properties.

d) **Noise** - Higher density housing will lead to noise pollution.

e) **Social impact** - Potential for increased crime and anti-social behavior in the area.

f) **Open space** - Developers should provide a safe play area for residents and surrounding neighbours.

iii) **Design and Aesthetic Issues**

a) **Building appearance** - Simple 'box' like design with skillion metal roofing not compatible with existing built form character of surrounding homes.

b) **Building separation** - There is a lack of separation between the dwellings. They should be of stand-alone / freestanding construction.

c) **Open space** - Lack of communal and open space provided within the development.

d) **Setback to southern boundary** - Minimal setback to the shared rear boundary of existing homes in Robina Close.

iv) **Traffic and Infrastructure Issues**

a) **Traffic** - Nerigai Close and Kerry Avenue are narrow streets and are not designed to support increase in traffic movements and increase parking. Road is not wide enough to have vehicles parked on the road and have traffic entering at the same time.

b) **Traffic safety** - Internal traffic movements and the need for traffic calming measures.

c) **Parking** - Increase pressure for on street parking. There is not enough parking for future residents with only single garages provided for each dwelling.

d) **Pedestrian safety** - Concerns regarding pedestrian safety.

e) **Garbage and servicing** - There will be difficulty for heavy vehicles entering site.

f) **Stormwater and sewerage** - Increased pressure on existing stormwater infrastructure due to reduced bushland and increased hard surface area for site.

g) **Flooding** - Clearing and excavation will create a floodplain. Increased risk of flooding to downstream properties.

h) **Road design** - Perhaps Kerry Avenue should connect Robina Close or Jubilee Road as this would alleviate traffic flow through Kerry Avenue and reduce burden on Watkins Road.

i) **Garbage refuse area** - Associated smells, odours and visual impact of garbage enclosure.
j) **Emergency evacuation** - Adequacy of only having one entrance and exit to cope with emergency evacuation in case of fire.

k) **Disabled access** - Increased on-street parking would further impede disabled access to safely access residences.

v) **Environmental**
   
   a) **Loss of bushland and vegetation** - Concern regarding the destruction of the natural bush corridor and riparian zone.
   
   b) **Flora and Fauna** - Impact on Wildlife and natural habitat including bandicoots, possums, lizards and native birds.
   
   c) **Waterway** - The waterway flowing through the site will be reduced in size. This along with the increased hard surface runoff (paths, sealed roads and roof area) will increase risk of flooding to downstream properties.
   
   d) **Microclimate** - Increase in heat, glare and chemical emissions.
   
   e) **Wind tunnel** - The development will create a wind tunnel.
   
   f) **Subsidence** - Potential impacts for surrounding properties.

vi) **Miscellaneous**

   a) **Construction impacts** - Concern regard the impacts on the neighbours from the construction process.
   
   b) **Fire safety** - Concern regarding spread of flames to adjoining blocks given the minimal setbacks.
   
   c) **Property Values** - The proposal will result in devaluation of surrounding properties.
   
   d) **Public interest** - There is no public benefit afforded to the community i.e. parks, reserves etc.
   
   e) **Notification** - Neighboring properties in the immediate area were notified only and not the wider community. Two weeks is not sufficient time to make considered submission.
   
   f) **Consultation** - There was a lack of community consultation undertaken by developer.

**ATTACHMENTS**

**Attachment A:** Copy of submitted plans - 18 Nerigai Close, Elermore Vale - DA 2015/0540

**Attachment B:** Processing Chronology - 18 Nerigai Close, Elermore Vale - DA 2015/0540
Attachment B

PROCESSING CHRONOLOGY
DA 2015/0540 - 18 Nerigai Close, Elermore Vale

01 June 2015  -  Application lodged with Council.


26 June 2015  -  General Terms of Approval received from Mine Subsidence Board.

18 September 2015  -  General Terms of Approval received from Department of Primary Industries (Water) in response to original proposal. Note: Further advice based on the amended proposal that includes the new road connection is still pending.

01 October 2015  -  Further information requested.

11 February 2016  -  Additional information submitted.

08 July 2016  -  General Terms of Approval received from NSW Rural Fire Service in response to original proposal. Note: Further advice based on the amended proposal that includes the new road connection is still pending.

11 July 2016  -  Amended Plan submitted showing a 5.5m wide roadway with a 1.2m wide footpath to connect Kerry Avenue to Nerigai Close.

13 July - 27 July 2016  -  Public Notification (Amended Plans).

26 July 2016  -  Application for Public Voice (Josie Bailey).

27 July 2016  -  Application for Public Voice (Michael Sherwell)

29 July 2016  -  Application for Public Voice (Cari Sherwell)
ITEM-3 PV REPORT - DA 2016/00159 - 46 KILGOUR AVENUE, MEREWETHER - TWO STOREY DWELLING, ASSOCIATED SWIMMING POOL AND SITE WORKS

APPLICANT: F B D'ALTERIO
OWNER: F B D'ALTERIO & C M R D'ALTERIO
NOTE BY: PLANNING & REGULATORY GROUP
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PURPOSE

An application has been received seeking consent to erect a two storey dwelling, associated swimming pool and site works.

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

The original proposal was notified to neighbouring properties for fourteen (14) days in accordance with the provisions of Newcastle DCP 2012 and eight (8) public submissions were received objecting to the proposal. It is noted three (3) submissions were received from the same address. One (1) Public Voice request was received during the notification period.

1.0 THE SITE

The subject site comprises Lot 42 DP 1160807. The lot is an irregular battle-axe shaped allotment located at the end of Kilgour Avenue. The lot has a curved frontage to Kilgour Avenue; a maximum length (including battle axe handle) of approximately 85.8 metres; a maximum and diminished site width of 22.485 metres and a total site area of 625.8m². The useable site area (excluding battle axe handle) is considered to be 464.5m². The site slopes towards Kilgour Avenue from the western boundary.

The site was subdivided in 1999 (DA 1998/1375 - Subdivision of land into two lots) and is currently vacant. The site is bounded by medium density residential development to the west, and single residential development to the north.

The subject allotment is adjacent to a heritage item of local significance (I308 - Brynhfryd (residence)), is located in a Mine Subsidence area and is located in a sensitive coastal location (in accordance with the NSW Coastal Policy 1997).
2.0 THE PROPOSAL

The applicant seeks consent to erect a two storey dwelling, associated swimming pool and site works.

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 in accordance with Council's PublicNotification Policy. Eight (8) submissions were received during the public notification period, with three (3) submissions being received from the same address. Therefore, it is considered six (6) submissions were received during the public notification period. One (1) application for public voice received.

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

i) Statutory and Policy Issues

   a) **Setbacks** - The proposed development does not comply with rear setback provisions (western boundary), and there is concern the proposed development does not increase setback from property boundaries as the wall height increases.

   b) **Building envelope** - The proposed development has departures to the single dwelling building envelope provisions to the north, west and south elevations.

   c) **Impact on the adjoining local Heritage Item (Brynhfryd (residence))** - The proposed development has a visual impact on the curtilage and heritage significance of the adjoining local heritage item.

   d) **Height** - the height of the proposed development is considered excessive.

   e) **Coastal zone development** - The proposed development does not respond to the relevant objectives of the Coastal policy given its sensitive coastal location.

   f) **Bulk and scale** - The proposed development is incompatible with the relevant objectives of development in a low density residential zone.

   g) **Landscaping** - The proposed development does not meet the minimum requirements of the DCP for landscaping, that being 20% of the site area.

ii) Amenity issues

   a) **View loss** - The impact of the proposed development on views to and from adjoining residences, and non-compliance with the view sharing principles.

   b) **Air quality** - Regarding potential smoke impacts resulting from solid (wood) fuel heaters.
Additional information supplied from the applicant has confirmed gas heaters will be installed in the development - no solid fuel heaters will be installed.

c) **Noise** - Increase in noise due to the location of private open space and the location of the swimming pool.

d) **Privacy** - Potential privacy and overlooking concerns due to the internal plan layout and the location of private open space in the development.

e) **Solar access** - The proposed development overshadows adjoining residents, leading to reduction in natural warmth and light.

f) **Visual amenity** - The visual impact of chimney stacks exceeding the reduced level of the parapet.

g) **Safety and security** - The proposed design will limit the opportunity for surveillance and increase opportunity for vandalism.

### iii) Design and Aesthetic Issues

a) **Excavation** - Impact of excavation on adjoining residences with respect to foundation instability and building damage.

b) **Impacts of solar panels** - Glare from solar panels and potential damage to adjoining property resulting from high winds.

c) **Boundary fences** - The proposed development will limit the opportunity for surveillance and impact visual amenity.

### iv) Miscellaneous

a) **Variations to the Section 88B instrument** - The proposed development exceeds the Section 88b instrument with respect to the building height (RL 28.22) and the building restriction line.

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**ATTACHMENTS**

**Attachment A:** Copy of submitted plans - 46 Kilgour Avenue, Merewether - DA2016/00159.

**Attachment B:** Processing Chronology - 46 Kilgour Avenue, Merewether - DA2016/00159.
### PROCESSING CHRONOLOGY

**DA 2016/00159 – 46 KILGOUR AVENUE, MEREWETHER**

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<td>11 November 2014</td>
<td>Correspondence for Pre-DA application 2014/88 issued to applicant.</td>
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<tr>
<td>14 August 2015</td>
<td>Correspondence for Pre-DA application 2015/60 issued to applicant.</td>
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<td>15 February 2016</td>
<td>Application lodged with Council.</td>
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<td>22 February 2016</td>
<td>Application notified to adjoining residents in accordance with Council's public notification policy (Section 8.00 of the DCP).</td>
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<td>9 March 2016</td>
<td>Notification period closes. Eight (8) submissions were received.</td>
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<td>25 May 2016</td>
<td>Preliminary correspondence issued to the applicant.</td>
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<td>14 June 2016</td>
<td>Additional submission received from adjoining neighbour (No. 44 Kilgour Avenue).</td>
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<tr>
<td>14 June 2016</td>
<td>Request for additional information issued to applicant.</td>
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<td>22 June 2016</td>
<td>Meeting held with applicant at Council's administration building concerning the Section 88b instrument.</td>
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<tr>
<td>13 July 2016</td>
<td>Additional information submitted to Council addressing Council's request for additional information dated 14 June 2016.</td>
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<tr>
<td>31 August 2016</td>
<td>Additional information submitted to Council addressing the Section 88b instrument.</td>
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<td>7 September 2016</td>
<td>Applicant advised application would proceed to Public Voice and the Development Assessment Committee.</td>
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