



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 June 2020

**TIME:** 6.00pm

**VENUE:** Video conferencing platform Zoom

J Bath  
Chief Executive Officer

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

9 June 2020

### **Please note:**

*Meetings of City of Newcastle (CN) are webcast. CN accepts no liability for any defamatory, discriminatory or offensive remarks or gestures made during the meeting. Opinions expressed or statements made by participants are the opinions or statements of those individuals and do not imply any form of endorsement by CN. Confidential matters will not be webcast.*

*The electronic transmission is protected by copyright and owned by CN. No part may be copied or recorded or made available to others without the prior written consent of CN. Council may be required to disclose recordings where we are compelled to do so by court order, warrant or subpoena or under any legislation. Only the official minutes constitute an official record of the meeting.*

*Authorised media representatives are permitted to record meetings provided written notice has been lodged. A person may be expelled from a meeting for recording without notice. Recordings may only be used for the purpose of accuracy of reporting and are not for broadcast, or to be shared publicly. No recordings of any private third party conversations or comments of anyone within the Chamber are permitted.*

*The location of all meetings will be determined by the CEO in consultation with the Lord Mayor, having regard to any applicable Public Health Orders regarding COVID-19, and will be either via video conferencing platform or at an appropriate CN facility in accordance with the requirements of the Local Government Act 1993.*

**PUBLIC VOICE COMMITTEE**  
**16 June 2020**

**CONTENTS**

<b>Item</b>	<b>Business</b>	<b>Page</b>
	<b>APOLOGIES/LEAVE OF ABSENCE</b>	
	<b>DECLARATIONS OF PECUNIARY / NON-PECUNIARY INTEREST</b>	
	<b>PUBLIC VOICE SESSIONS</b>	<b>3</b>
ITEM-1	PV 16/06/20 - DA2019/01351 - 18-20 MEREWETHER STREET, MEREWETHER - ARTISAN FOOD AND DRINK PREMISES - ALTERATIONS AND ADDITIONS AND CHANGE OF USE	3
ITEM-2	PV 16/06/20 - DA2020/00158 - 54 REGENT STREET NEW LAMBTON - INSTALLATION OF A TELECOMMUNICATIONS FACILITY (25M MONOPOLE AND ANCILLARY EQUIPMENT)	8

## PUBLIC VOICE SESSIONS

**ITEM-1**                    **PV 16/06/20 - DA2019/01351 - 18-20 MEREWETHER STREET, MEREWETHER - ARTISAN FOOD AND DRINK PREMISES - ALTERATIONS AND ADDITIONS AND CHANGE OF USE**

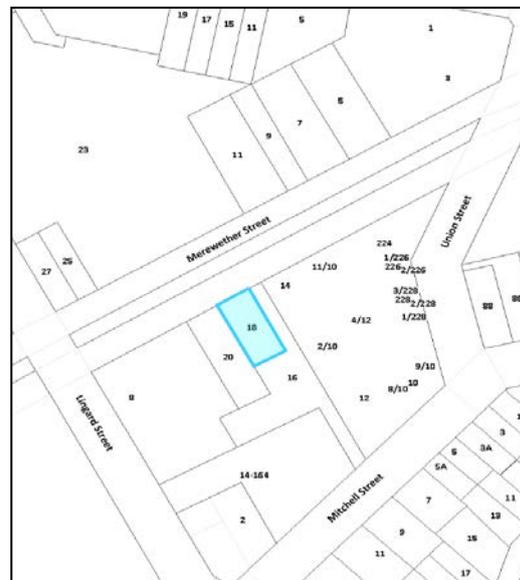
**APPLICANT:**            **MODUS OPERANDI BREWING CO**  
**OWNER:**                **IAN BOWER PROPERTIES PTY LIMITED**  
**REPORT BY:**            **GOVERNANCE**  
**CONTACT:**             **DIRECTOR GOVERNANCE/ MANAGER REGULATORY, PLANNING AND ASSESSMENT**

## PURPOSE

An application (DA2019/01351) has been received seeking consent for an artisan food and drink premises, including alterations and additions and change of use at 18-20 Merewether Street, Merewether NSW 2291.

The application was publicly notified in accordance with City of Newcastle's (CN) Community Participation Plan.

The application is referred to Public Voice due to the number of public submissions received. A total of 40 submissions were received of which 39 were in objection to the proposal.



**Subject Land:** 18-20 Merewether Street Merewether

The concerns raised by the objectors in respect of the proposed development include permissibility of the development, contamination, impacts to amenity such as noise and antisocial behaviour, and traffic and parking. A detailed assessment of the key issues raised by objectors is provided at Section 4.0.

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

## 1.0 THE SITE

The site is known as 18-20 Merewether Street, Merewether and has a legal description of Lot 10, Section 3, in Deposited Plan 111239 and Lot 4 in Deposited Plan 218920. The combined lots form an irregular L-shaped block on the southern

side of Merewether Street. The subject site has a frontage of 30.55 metres to Merewether Street, a maximum depth of 31.97 metres to the eastern boundary and 45.91 metres to the western boundary, with a total area of 1174.8m<sup>2</sup>. The site has a relatively flat topography. The subject site is identified as being flood affected and is also located in a mine subsidence district.

Number 18 Merewether Street comprises vacant land, while 20 Merewether Street is currently occupied by a warehouse that was previously used as a mechanical repair depot, and a smash repairer. The site is bounded by business development zoned lots to the east, south, and west, and residential zoned lots to the north. The residential lots to the north are part of the Lingard Private Hospital buildings and 8 Lingard Street to the west is also part of the Lingard Private Hospital site.

## 2.0 THE PROPOSAL

The applicant seeks consent for an artisan food and drink premises comprising alterations and additions and a change of use to an existing warehouse. The applicant proposes the operation of the Modus Operandi microbrewery from the site. Modus Operandi is an established brewery and craft drink manufacturer which currently operates out of Mona Vale. The principal purpose of the proposed development is to manufacture craft beer, with 98% of volume manufactured being sold off-site.

In addition to the principal purpose of the manufacturing of craft drink from the premises, ancillary uses including retail sale of craft drink and food, public tastings, tours, workshops and special events shall also occur on site. The site will have a maximum capacity of 200 persons Monday to Thursday, and 300 persons Friday to Sunday. Incorporating more than one ancillary use is permitted under the definition of an artisan food and drink industry, and the retail, public tasting, tours, workshops, and special events are considered ancillary to the manufacturing of craft beer.

The construction works associated with the proposed use are as follows:

- i) Demolition of existing boundary fencing and internal walls within the existing warehouse.
- ii) Fit out to accommodate the making of craft food and drink, including a retail area for the sale of products and facilities for holding tastings, tours and workshops.
- iii) An 85m<sup>2</sup> addition to the north-eastern side of the existing warehouse.
- iv) Provision of associated parking and bicycle facilities (4 staff car parking spaces – 2 spaces provided within the existing warehouse, 2 visitor spaces, 1 disabled space, 36 bicycle racks – 6 dedicated for staff within the warehouse, and 3 motorbike spaces).
- v) Public domain works such as kerb and gutter, driveway crossover and turf to CN road reserve.

A covered outdoor area totaling 275m<sup>2</sup>, with 63m<sup>2</sup> associated with the brewery, 176m<sup>2</sup> for use by the public including kids play area, and 36m<sup>2</sup> associated with the entry and bicycle parking. A total of 32 seats are provided in the outdoor area.

The proposed hours of operation are as follows:

- i) Brew house: Monday to Friday - 7am to 7pm, and Saturday - 7am to 2pm.
- ii) Ancillary uses: Monday to Thursday – 11am to 11pm, Friday and Saturday – 11am to 12am, and Sunday – 11am to 10pm.
- iii) Deliveries: Monday to Friday - 7am to 5pm.

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**

In accordance with CN's Community Participation Plan, this type of application requires a public notification period for 14 days, however in this instance the notification period was extended to allow for the holiday period. Accordingly, the application was placed on public notification from 8 January 2020 to 28 January 2020, during this time 40 submissions were received.

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

#### **a) Statutory and Policy Issue**

- i) Land use definition – that the proposed use did not fall within the definition of 'artisan food and drink industry' which is a type of 'light industry'.
- ii) Permissibility within the zone – that the proposed development was not permissible in the B5 Business Development zone.
- iii) Contamination – that the site is contaminated and not suitable for the proposed use.

#### **b) Amenity Issues**

- i) Noise – adverse noise impacts to adjoining properties which include residential dwellings.
- ii) Anti-social behaviour – the proposed use will result in increased anti-social behaviour associated with consumption of alcohol at the site.
- iii) Air quality – adverse air quality impacts will arise as a result of the brewery processes.

**c) Traffic and Parking Issues**

- i) Traffic and parking issues – impact to local traffic and parking conditions within the surrounding locality.
- ii) Lack of public transport – lack of public transport in the locality.

**d) Miscellaneous**

- i) Number of licensed premises in the Local Government Area (LGA) – concern raised with the number of existing licensed premises.
- ii) Hours of operation – that the 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, Fiona Dowler for assessment. The key issues resulting from the assessment are outlined below:

**a) Statutory and Policy Issues**

The site is zoned B5 Business Development, '*light industries*' are permissible in the B5 zone. '*Artisan food and drink industry*' is a type of '*light industry*' under Newcastle Local Environmental Plan 2012 (NLEP2012).

Further information was provided by the applicant during the assessment detailing the primary use (microbrewery) and other included ancillary uses (retail; restaurant; facility for tours, tastings, and workshops) proposed under the definition of light industry (artisan food and drink industry). The proposed development is permissible with consent from CN.

The site was previously used as a mechanical repair depot, and a smash repairer. A Detailed Site Investigation Assessment has been provided with the application which demonstrates compliance with the requirements of *State Environmental Planning Policy No.55 – Remediation of Land*.

**b) Amenity Issues**

The applicant has provided an Operational Noise Assessment which has been reviewed by CN, and consideration has been given to the noise impact upon current and future residential receivers. CN's Environmental Services Unit (ESU) have recommended to condition the use of the outdoor area to 10:00pm each night, patron numbers limited to 150 outside, and amplified entertainment set at 86dB(A).

An Air and Odour Assessment has been provided and reviewed by CN.

**c) Traffic and parking Issues**

The application has been supported by a Traffic Assessment which provides justification for the parking rates applied by the applicant.

The site is serviced nearby by public transport, Union Street (to the north-east) and Mitchell Street (to the south) and are both serviced by buses and are within 135 to 200m walking distance from the subject site.

**d) Miscellaneous**

The application was referred to the NSW Police and considered by the Licensed Premises Reference Group. The applicant has provided a Plan of Management that outlines planned measures for the management of patrons.

The above issues, and matters raised within the received submissions, will be addressed in an assessment report to the Development Applications Committee.

**ATTACHMENTS**

**Item 1 Attachment A:** Submitted Plans – 18-20 Merewether Street, Merewether

**Item 1 Attachment B:** Processing Chronology– 18-20 Merewether Street, Merewether

**Item 1 Attachments A & B are distributed under separate cover.**

**ITEM-2 PV 16/06/20 - DA2020/00158 - 54 REGENT STREET NEW LAMBTON - INSTALLATION OF A TELECOMMUNICATIONS FACILITY (25M MONOPOLE AND ANCILLARY EQUIPMENT)**

**APPLICANT: TELSTRA CORPORATION LTD C/- KORDIA SOLUTIONS AUSTRALIA**  
**OWNER: AUSTRALIAN TELECOMMUNICATIONS COMMISSION**  
**REPORT BY: GOVERNANCE**  
**CONTACT: DIRECTOR GOVERNANCE/ MANAGER REGULATORY, PLANNING AND ASSESSMENT**

**PART I**

**PURPOSE**

An application (DA2020/00158) has been received seeking consent for a telecommunications facility comprising a 25m monopole with associated antennas and equipment at 54 Regent Street, New Lambton, NSW 2305.

The application was publicly notified in accordance with City of Newcastle’s (CN) Community Participation Plan.

The application is referred to a Public Voice meeting due to the number of submissions received. A total of 264 submissions and two public voice requests were received.

The application is referred to the Development Applications Committee for determination, due to the application being called in by Councillor Clausen, Councillor Elliott and Councillor Rufo.

The concerns raised by the objectors in respect of the proposed development include character, visual impact, health, property value, electromagnetic emissions, location, flora and fauna and public interest. A detailed summary of the key issues raised by objectors is provided at Section 3.0.

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



**Subject Land:** 54 Regent Street New Lambton



## 2.0 THE PROPOSAL

The development application proposes the installation of telecommunications facility comprising a 25m monopole and ancillary equipment. Particulars of the proposal are listed below:

- 1) Installation of a new 25m concrete monopole with a double stack turret headframe (overall height 31.8m).
- 2) Installation of six new panel antennas mounted on the headframe.
- 3) Replacement of existing shelter with new shelter on existing concrete slab.
- 4) Removal and decommissioning of the existing wall mounted installation on the exchange.
- 5) Installation of ancillary equipment including transceivers, remote radio units, amplifiers, antenna mounts, cable trays, feeders, cabling, combiners, diplexers, splitter, couplers, jumpers, filters, electrical equipment, signage, and other associated equipment.

The proposed development is intended to replace the existing telecommunication infrastructure, namely Telstra antennas, which are located on the walls of the existing Telstra exchange compound. The existing antennas are proposed to be removed upon completion of the proposed development. The proposed telecommunications facility will provide the necessary cover and service objectives within the area.

The Statement of Environmental Effects submitted with the development application identifies that co-location with other facilities was investigated, however co-location was not determined to be practical in this instance as it would not improve coverage to the New Lambton Area.

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 included at **Attachment B**.

## 3.0 PUBLIC NOTIFICATION

In accordance with CN's Community Participation Plan, this type of application requires a public notification period for 14 days. Accordingly, the application was placed on public notification from 2 March 2020 to 16 March 2020, during this time 264 submissions were received.

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

**a) Statutory and Policy Issues**

- i) Newcastle Local Environmental Plan 2012 (NLEP 2012) does not include provisions for telecommunication towers.
- ii) The proposed telecommunications tower exceeds the maximum prescribed height limit for the subject site as specified in NLEP 2012.

**b) Amenity Issues**

- i) The proposed telecommunications tower has not been designed or sited to reduce the impact on the amenity of the surrounding area.
- ii) The telecommunications tower is not in keeping with the character of the New Lambton Commercial Centre.
- iii) The telecommunications tower detracts from the amenity of the New Lambton Commercial Centre.
- iv) The telecommunications tower obstructs views from private land.

**c) Design and Aesthetic Issues**

- i) Character - The proposed telecommunications tower is not compatible with the character of the New Lambton Commercial Centre.
- ii) Visual impact - The proposed telecommunications tower is too tall and should be shorter.

**e) Miscellaneous**

- i) Health - Concern regarding the impacts on the health of residents and school children within close proximity to the proposed telecommunications tower.
- ii) Location - The proposed telecommunications tower should be located somewhere else.
- iii) Property prices - The proposed telecommunications tower will impact property prices.
- iv) Co-location - Opportunities for co-location within the vicinity of New Lambton have not been explored as well as opportunities for future telecommunication towers to co-locate at the proposed site.
- v) Notification – Residents within the vicinity of the tower were not notified of the proposed telecommunications tower.

- vi) Flora and Fauna – The impacts to native flora and fauna have not been considered.
- vii) Electromagnetic Energy (EME) – There is not enough information available on the effects of prolonged exposure to EME.
- viii) Precedence – Locating a telecommunications tower within a dense urban setting sets a precedence for the future.
- ix) Land tenure – The subject site is owned by Telstra therefore it is in their best interest to locate the proposed telecommunications tower on a site Telstra owns and not elsewhere.
- x) Public interest – The proposed telecommunications tower is not in the public interest as it will negatively impact the health of New Lambton residents and detract from the amenity of the New Lambton Commercial Centre.

#### 4.0 DEVELOPMENT OFFICER PLANNING ASSESSMENT

The submitted application has been assigned to Development Officer, Alexandra Tobin for assessment. The key issues resulting from the assessment, and raised within the received submissions, are outlined below:

##### a) Statutory and Policy Issues

The subject site is zoned B2 Local Centre under NLEP 2012. The proposed development is defined as a *'telecommunications facility'* and is not listed as a permissible use within the zone. However, in accordance with cl.115(1) State Environmental Planning Policy (Infrastructure) (ISEPP), development for the purposes of a *'telecommunications facility'* is permissible on the subject site with consent. Due to the hierarchy of environmental planning instruments, the provisions of the ISEPP prevail over NLEP 2012, and as such the proposed development is permissible with consent from CN.

It is noted that in many circumstances *'telecommunications facilit(ies)'* are constructed without the need to obtain consent from CN pursuant to the exempt and complying development provisions of the ISEPP. However, the proposed development being a 25m monopole (with associated antennas and equipment) located on land zoned B2 Local Centre does not fall within the ISEPP exempt and complying development provisions. Accordingly, the applicant is seeking consent from CN.

Given the nature of the proposed development, there are minimal controls within NLEP 2012 or the Newcastle Development Control Plan 2012 (NDCP 2012) which apply. The assessment of the proposal is governed by the relevant provisions of the ISEPP, together with the requirements of the *NSW Telecommunications Facilities Guideline including Broadband (July 2010)* (the 'Guideline').

The principles that must be taken into consideration during the design and assessment of a telecommunication facility development are outlined in section 2.2 of the Guideline. The Statement of Environmental Effects (SEE) submitted with the development application outlines the proposals consistency with the Guideline principles.

## b) Electromagnetic emissions (EME)

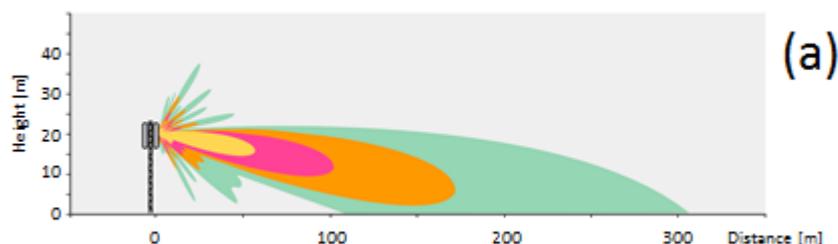
Telecommunications facilities generating Electromagnetic Emissions (EME), such as the proposed development, are required to comply with EME standards mandated by the Australian Communication and Media Authority (ACMA), which includes a maximum exposure limited expressed as a percentage value of 100%.

The Environmental EME Report submitted with the application demonstrates that the maximum predicted EME levels of the proposed development will equate to 3.18% of the maximum exposure limit at a distance of 64m from the location, which is 96.82% below the allowable exposure limit under the Australian Standard. The existing telecommunications infrastructure located at the subject site has a maximum EME level of 5.94% at a distance of 53m from the location. The proposed development will result in a reduction of the maximum predicted EME level at the subject site as the proposed telecommunications facility will be located in a new position at the subject site which is further away from the existing telecommunications facility. In addition to the facility being located further away, the height of the proposed telecommunications facility also contributes to these reductions. The application outlines:

*“As one moves away from a base station at ground level, the levels first increase before reaching a maximum and then get less as you move further away. Typically, the maximum EME level at ground level will occur between 75m and 200m from the base of the antenna.”*

Figure 1 below provides a two-dimensional view of what happens to the EME around a base station. The EME transmitted from small cells (existing on the subject site) is more localised and, depending on its configuration, may not follow the same emission profile as a larger base station (proposed telecommunications facility). Typically, the EME levels are very low and they decrease rapidly with distance away from the source much like the larger base stations.

**Figure 1:** How EME levels vary as you move away from a base station tower.



(Source: Australian Radiation Protection and Nuclear Safety Agency, Australian Government)

Table 1 below provides a comparison of the EME levels associated with the existing telecommunications infrastructure located on site and the proposed development.

Distance from the site	Existing configuration			Proposed configuration		
	Electric field (V/m)	Power density (mW/m <sup>2</sup> )	Percentage of the public exposure limit	Electric field (V/m)	Power density (mW/m <sup>2</sup> )	Percentage of the public exposure limit
0-50m	12.022	383.36	5.94%	10.72	304.69	3.17%
50-100m	12.069	386.34	5.94%	10.73	305.36	3.18%
100-200m	7.3	141.29	2.39%	8.49	191.0	1.94%
200-300m	3.62	34.7	0.59%	6.3	105.31	1.38%
300-400m	2.42	15.58	0.27%	4.3	49.0074	0.64%
400-500m	1.81	8.71	0.15%	3.18	26.81	0.35%

**Table 1:** Comparison of EME levels extracted from EME report

There are approximately 20 dwellings located within 100m of the proposed facility, the Environmental EME Report has identified a predicted maximum EME level of 4.022% as measured at the nearest residence. This equates to 95.978% below the allowable exposure limit under the Australian Standard. Table 2 below provides the EME level readings for areas of interest such as the New Lambton Public School and St Therese’s Catholic Primary School.

Location	Height range	Electric field (V/m)	Power density (mW/m <sup>2</sup> )	Percentage of the public exposure limit
Nearest residence on Russell Rd	0-3 m	12.061	385.85	4.022%
Public School	0-2 m	9.62	245.63	2.5%
St Therese's Catholic Primary school	0-2 m	3.48	32.059	0.4%

**Table 2:** Proposed EME levels at areas of interest extracted from EME report

**c) Site considerations**

The applicant undertook a detailed site selection process as part of the application with due consideration given to a range of issues including but not limited to:

- i) Consistency with the applicable Commonwealth and State and Local planning policies and regulatory instruments.

- ii) Minimal impact on the environment during the construction and operation of the facility.
- iii) Avoiding area of Environmental Significance or heritage listed sites or any sites of heritage significance.
- iv) Meeting the radio frequency objectives of Telstra's networks.
- v) Opportunities for co-location with other existing telecommunications facilities / utility structures wherever possible.

The applicant advises that no other suitable candidate areas within the suburb of New Lambton were identified. The search for an alternative location was limited to an area located within close proximity to the existing site which is largely characterised by low density residential development which is generally not conducive to telecommunication facilities. The subject site was therefore deemed the most suitable location for the proposed telecommunications facility.

The subject site has an identified maximum height of 11m under NLEP 2012. The proposed development has a total height of 31.8m. The applicant has identified that a minimum height of 30.3m is required to support coverage in the New Lambton area. A reduced height would decrease coverage.

The subject site is allocated a maximum Floor Space Ratio (FSR) of 1.5:1. The proposed development does not affect the FSR of the subject site as it is replacing infrastructure existing on the subject site.

The subject site is not identified as being Bush Fire Prone or Flood Prone land. Further, the subject site is not mapped as containing biodiversity values nor within proximity to land identified as containing biodiversity values.

The development application does not propose the removal of any vegetation in order to facilitate the development; no tree clearing is required to access the site or to construct the proposed facility.

The subject site is not identified as being a heritage item or being located within a Heritage Conservation Area. It is noted that the subject site is located within close proximity to New Lambton Public School which is identified as a local heritage item. The application outlines the proposal does not detract from the heritage significant of the New Lambton Public School site.

A series of photomontages from two viewpoints within the New Lambton Commercial Centre have been prepared as part of the development application to illustrate the potential visual impacts of the proposed telecommunications tower. Receptors of these viewpoints would include motorists, pedestrians and businesses within the New Lambton Commercial Centre.

The proposed height of the development will result in the structure being visible from several locations within the surrounding area. The nature of telecommunications

facilities requires that they be located at an elevated position to gain the best coverage possible. The application identifies a number of methods have been integrated into the design of the proposed telecommunications facility to mitigate the visual impacts of the structure including; locating the structure in proximity to existing vertical elements such as buildings, and the use of neutral / non-reflective grey colours to blend into the skyline.

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

## **ATTACHMENTS**

**Item 2 Attachment A:** Submitted plans - 54 Regent Street New Lambton

**Item 2 Attachment B:** Processing Chronology - 54 Regent Street New Lambton

**Item 2 Attachments A to B distributed under separate cover.**