



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 17 May 2022

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**

10 May 2022

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PUBLIC VOICE COMMITTEE
17 May 2022

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PUBLIC VOICE SESSIONS

ITEM-1 PV 17/05/22 - 142 DARBY STREET, COOKS HILL - DA2021/00962 - HOTEL - EXTENSION OF TRADING HOURS

APPLICANT: MARVAN HOTELS
OWNER: DEL HOLDINGS PROPERTY PTY LIMITED & THE NEW WINDSOR HOTEL PTY LIMITED
REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER/ MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

A Development Application (DA 2021/00962) has been received seeking consent for an extension of trading hours to a hotel.

The subject site is described as 142 Darby Street, Newcastle and is currently used as a food and drink premises (hotel) known as the Delaney Hotel.

The submitted application was assigned to Senior Development Officer, Gareth Simpson, for assessment.



Subject Land: 142 Darby Street Cooks Hill

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 application was notified in accordance with City of Newcastle’s (CN) Community Participation Policy (CPP), with 19 submissions and 5 late submissions received.

The concerns raised by the objectors include a deficiency in the application information, public safety, an increase in anti-social behaviour, noise impacts, increased vehicular traffic, the impact on residential amenity, lack of public street 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**.

1.0 THE SITE

The site is known as 142 Darby Street, Newcastle and has a legal description of Lot 20, DP 1038322 and Lot 13 & 15 DP 1009613. The site is "L shaped", has a total area of approximately 638 m² and is located on the corner of Darby and Council Streets, with a frontage to both streets.

The site is identified as being flood affected, within the Coastal Environment Area map, located within a mine subsidence district and the in Cooks Hill Heritage Conservation Area.

There are three buildings on the site, the original two storey hotel building at the corner of Darby and Council Streets, a newer two storey commercial building at 140-142 Darby Street, and a single storey bottle shop at the rear (north) within Council Street.

A car park is located along the north-western side of the site.

The premises consists of a bistro, general bar area, lounge bar, TAB, gaming room and beer garden, located on the ground floor.

On the first floor is a function room and accommodation rooms and a separate bottle shop at the rear.

Access to the building is principally via Darby and Council Streets, with an additional access point available from the carpark. The surrounding area predominantly consists of one and two-storey commercial buildings along Darby Street and one and two storey residential dwellings to the north and west of the site.

2.0 THE PROPOSAL

The applicant seeks consent to change the operating hours and procedures of the premises as detailed below.

- i) An extension of trading hours. A comparison of the existing and proposed trading hours is provided below:

Day	Current Operating Hours	Proposed Operating Hours
Monday	10am – 12pm	10am – 2am
Tuesday	10am – 12pm	10am – 2am
Wednesday	10am – 12pm	10am – 2am
Thursday	10am – 12pm	10am – 2am
Friday	10am – 12pm	10am – 2am
Saturday	10am – 12pm	10am – 2am
Sunday	10am – 10pm	10am – 12 midnight

- ii) Monday to Saturday, between 12 midnight and 1am, capacity would be reduced from a potential 900 persons to 300 persons on the ground floor and the first-floor function area closed.
- iii) Monday to Saturday, between 1am and 2am, the 'public bar' area is to close with the capacity further reduced to 120 persons in the Lounge Bar and Gaming Room and patrons leaving via the Darby Street and car park.
- iv) The adoption of a Plan of Management including provisions for the proposed staged shutdown, acoustic measures and patron management when leaving the venue.

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

3.0 PUBLIC NOTIFICATION

The application was publicly notified for a period of 14 days between 29 July 2021 and 12 August 2021 in accordance with City of Newcastle's (CN) Community Participation Plan (CPP). During the notification period 19 submissions were received, with an additional 5 submissions received outside the formal notification period.

The concerns and comments raised by the objectors to the development are summarised below.

a) Statutory and Policy Issues

- i) No social impact assessment submitted with the development application contrary to Section 4.15 (1) of the Environmental Planning and Assessment Act 1979.
- ii) The proposal is contrary to the aims of the Newcastle After Dark strategy in relation to the Darby Street precinct.
- iii) If approved, the requirements of the Plan of Management should be conditioned.
- iv) Objectors are unable to review any NSW Police submissions to the proposal.

b) Amenity Issues

- i) Impact on the noise levels of the locality.
- ii) Concern with increased anti-social behaviour because of proposal.
- iii) Concern with several patrons leaving the hotel at the same time.

- iv) If the DA is approved, a condition of consent should ensure windows to the premises are closed by a certain time i.e. 10pm.

c) Traffic and Parking Issues

- i) Increased traffic in the local road network.

d) Miscellaneous

- i) The submitted acoustic report does not reflect the current noise levels.
- ii) The submitted Statement of Environmental Effects does not reflect crime issues in locality
- iii) The proposal will create a precedent of approval for other licensed premises on Darby Street.
- iv) The proposal does not adequately address the impacts of the development.

4.0 DEVELOPMENT OFFICER PLANNING COMMENTS

Noise Impacts

The application includes a Noise Impact Assessment (NIA). The report considers the noise impact on residential receivers, assessing 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 7:00 am 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 7:00 am at the boundary of any affected residence.*

The NIA states that the proposed extended opening hours can comply with the required acoustic criteria, subject to a number of recommendations, which include sound attenuation glazing, doors and ceiling panels, and the operation of a noise limiter on site.

Social Impact Assessment

The applicant has provided a Social Impact Assessment (SIA) as part of the submission documents. The SIA details the proposed strategies to mitigate potential

social impacts from the proposal including crime prevention, noise impacts and anti-social behaviour.

Plan of Management

A Plan of Management (POM) has been submitted as part of the DA. The POM details the proposed management measures for the premises including hours of operation, capacity, details of the staged shutdown after 12pm, noise mitigation measures, drinking restrictions, security arrangements and CCTV amongst other measures. The POM has been reviewed by the NSW Police and CN's Licensed Premises Reference Group.

Anti-Social Behaviour

Details of how the premises will mitigate anti-social behaviour are provided in the submitted POM. The applicant is proposing a range of measures including security around the premises, CCTV, staged closure of the premises and monitoring of alcohol consumption.

The NSW Police have reviewed the proposal. Strong concern has been raised regarding the dispersion of patrons and an increase to alcohol-related crime and violence. The NSW Police have provided conditions of consent to assist with mitigating 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 Plan – 142 Darby Street, Newcastle

Item 1 - Attachments A - Distributed under separate cover