

CITY OF NEWCASTLE

Minutes of the Development Applications Committee Meeting held in the Council Chambers, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West on Tuesday 6 December 2022 at 6.01pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors E Adamczyk, J Barrie, J Church, D Clausen, C Duncan, J Mackenzie, C McCabe, C Pull, D Richardson, K Wark, P Winney-Baartz and M Wood.

IN ATTENDANCE

J Bath (Chief Executive Officer), J Rigby (Executive Director City Infrastructure), D Clarke (Executive Director Corporate Services), L Duffy (Acting Executive Director Creative and Community Services), M Bisson (Interim Executive Director Planning and Environment), E Kolatchew (Manager Legal and Governance), P Emmett (Development Assessment Section Manager), K Sullivan (Councillor Services/Minutes/Meeting Support), R Garcia (Information Technology and AV Support) and A Paule-Font (Information Technology).

REQUEST TO ATTEND VIA AUDIO VISUAL LINK

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

The request submitted by Councillor Duncan to attend by audio visual link be received and leave granted.

Carried

APOLOGIES

Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Mackenzie

Councillor Mackenzie declared a conflict of interest in Item 30 – Notice of Recommendation to Hunter Central Coast Regional Planning Panel (HCCRPP) – DA2018/01351 – Winten Development – Residential subdivision at 144 & 177 Woodford Road, & 610 Minmi Road, Minmi stating that as a Council representative on the HCCRPP he would leave the Chamber for discussion on the item.

Councillor McCabe

Councillor McCabe declared a non-significant non-pecuniary interest in Item 29 – 204 Union Street The Junction – DA2021/011107 stating that the licensing authority was the Department of Education who she worked for as a casual primary school teacher and would remain in the Chamber for discussion on the item.

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Councillor Church

Councillor Church declared a less than significant non-pecuniary interest in Item 24 – 37 Stevenson Place Newcastle East – DA2022/00611 – Dwelling House – alterations and additions stating that the applicant was known to him and rather as a perception as opposed to a conflict he would leave the Chamber for discussion on the item.

Councillor Church

Councillor Church declared a less than significant non-pecuniary interest in Item 26 – 7 Gwydir Road New Lambton – DA2022/00513 – Dual occupancy – including one into two lot subdivision and demolition of existing structures stating that the applicant was known to him and rather as a perception as opposed to a conflict he would leave the Chamber for discussion on the item.

Councillor Winney-Baartz

Councillor Winney-Baartz declared a conflict of interest in Item 30 – Notice of Recommendation to Hunter Central Coast Regional Planning Panel (HCCRPP) – DA2018/01351 – Winten Development – Residential subdivision at 144 & 177 Woodford Road, & 610 Minmi Road, Minmi stating that as a Council representative on the HCCRPP she would leave the Chamber for discussion on the item.

Councillor Pull

Councillor Pull declared a conflict of interest in Item 30 – Notice of Recommendation to Hunter Central Coast Regional Planning Panel (HCCRPP) – DA2018/01351 – Winten Development – Residential subdivision at 144 & 177 Woodford Road, & 610 Minmi Road, Minmi stating that as an alternate Council representative on the HCCRPP he would leave the Chamber for discussion on the item.

Councillor Duncan

Councillor Duncan declared a conflict of interest in Item 30 – Notice of Recommendation to Hunter Central Coast Regional Planning Panel (HCCRPP) – DA2018/01351 – Winten Development – Residential subdivision at 144 & 177 Woodford Road, & 610 Minmi Road, Minmi stating that as an alternate Council representative on the HCCRPP she would leave the Chamber for discussion on the item.

Councillor Adamczyk

Councillor Adamczyk declared a non-significant non-pecuniary interest in Item 30 – Notice of Recommendation to Hunter Central Coast Regional Planning Panel (HCCRPP) – DA2018/01351 – Winten Development – Residential subdivision at 144 & 177 Woodford Road, & 610 Minmi Road, Minmi stating that she had previously excused herself from acting on any additional determinations and had spoken with the Chair and Secretariat about the fact that she was not in breach of the Code of Conduct having spoken about this matter to the Planning Panel on Monday 5 December 2022 and to the media.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 15 NOVEMBER 2022

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

The draft minutes as circulated be taken as read and confirmed.

Carried

DEVELOPMENT APPLICATIONS

ITEM-22 DAC 06/12/22 - 20 SUMMER PLACE MEREWETHER HEIGHTS - DA2021/01648 - DWELLING HOUSE - ALTERATIONS, ADDITIONS AND ANCILLARY DEVELOPMENT (POOL AND RETAINING WALLS) INCLUDING DEMOLITION

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

- 1) That the Development Applications Committee (DAC) note the objection under Clause 4.6 Exceptions to Development Standards of the Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the R2 Low Density zone in which the development is proposed to be carried out; and
- 2) That DA2021/01648 for dwelling house – alterations, additions and ancillary development (pool and retaining walls) including demolition at 20 Summer Place, Merewether Heights be approved, and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion:

Nil.

Carried

**ITEM-23 DAC 06/12/22 - 6 SCHOLEY STREET MAYFIELD -
DA2022/00137 - SUBDIVISION - 1 INTO 2 LOTS**

MOTION

Moved by Cr McCabe, seconded by Cr Clausen

- A. That the Development Applications Committee (DAC) note the objection under Clause 4.6 Exceptions to the development standard of the Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.1 *Minimum Subdivision Lot Size*, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.1 and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and
- B. That DA 2022/00137 for a one into two Torrens Title lot subdivision at 6 Scholey Street, Mayfield, be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Bartz and Wood.

Against the Motion: Nil.

Carried

**ITEM-24 DAC 06/12/22 - 37 STEVENSON PLACE NEWCASTLE EAST
- DA2022/00611 - DWELLING HOUSE - ALTERATIONS AND
ADDITIONS**

Councillor Church left the meeting for discussion on the item.

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

- A. That the DAC note the objection under Clause 4.6 Exceptions to Development Standards of the NLEP 2012, against the development standard at Clause 4.4 Floor Space Ratio, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.4 and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out; and
- B. That DA2022/00611 for alterations and additions at 37 Stevenson Place Newcastle East be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- C. That those persons who made submissions be advised of CN's determination.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Pull

The matter lay on the table to enable further consideration of the draft conditions of consent following concerns raised by both objectors and the applicant.

For the Procedural Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Procedural Motion: Nil.

Carried

Councillor Church returned to the meeting at the conclusion of the item.

**ITEM-25 DAC 06/12/22 - 26 WOODWARD STREET MEREWETHER -
DA2022/00382 - DUAL OCCUPANCY – INCLUDES
DEMOLITION AND SUBDIVISION (2 LOTS) TORRENS TITLE**

MOTION

Moved by Cr Mackenzie, seconded by Cr McCabe

- A. That the Development Applications Committee (DAC) note the objection under Clause 4.6 Exceptions to Development Standards of the Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and
- B. That Development Application DA2022/00382 for demolition of existing dwelling and associated structures, erection of dual occupancy development Torrens title subdivision (2 lots) and associated earthworks at 26 Woodward Street, Merewether be approved, and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Nil.

Carried

**ITEM-26 DAC 06/12/22 - 7 GWYDIR ROAD NEW LAMBTON -
DA2022/00513 - DUAL OCCUPANCY - INCLUDING ONE
INTO TWO LOT SUBDIVISION AND DEMOLITION OF
EXISTING STRUCTURES**

Councillor Church left the Chamber for discussion on the item.

PROCEDURAL MOTION

Moved by Lord Mayor, Cr Nelmes, seconded by Cr Barrie

Item 26 be deferred to the end of the agenda to consider a memo circulated to all Councillors.

For the Procedural Motion: Lord Mayor, Cr Nelmes and Councillors
Adamczyk, Barrie, Church, Clausen,
Duncan, Mackenzie, McCabe, Pull,
Richardson, Wark, Winney-Baartz and
Wood.

Against the Procedural Motion: Nil.

Carried

Councillor Church returned to the Chamber.

**ITEM-27 DAC 06/12/22 - 42 GEORGETOWN ROAD GEORGETOWN -
DA2022/00524 - SHOP TOP HOUSING - INCLUDING 25 LOT
STRATA SUBDIVISION, REMEDIATION AND DEMOLITION**

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

- A. That the Development Applications Committee (DAC) note the objection under Clause 4.6 Exceptions to Development Standards of the Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the B2 Local Centre zone in which the development is proposed to be carried out; and
- B. That the DAC note the objection under Clause 4.6 Exceptions to Development Standards of the NLEP 2012, against the development standard at Clause 4.4 Floor Space Ratio, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.4 and the objectives for development within the B2 Local Centre zone in which the development is proposed to be carried out; and

- C. That DA2022/00524 for demolition of existing structures, site remediation, shop top housing, commercial and 25 lot strata subdivision at 42 Georgetown Road, Georgetown be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- D. That those persons who made submissions be advised of CN's determination.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Nil.

Carried

ITEM-28 DAC 06/12/22 - 10 DANGAR STREET WICKHAM - DA2022/00448 - ALTERATIONS AND ADDITIONS TO APPROVED MIXED-USE DEVELOPMENT (COMMERCIAL, RETAIL & SHOP TOP HOUSING) – ALTERATIONS TO APPROVED FLOOR PLANS AND THREE ADDITIONAL FLOORS OF SHOP TOP HOUSING ACCOMMODATION ABOVE THE APPROVED STRUCTURE

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

- A. That the DAC as the consent authority note the objection under Clause 4.6 Exceptions to development standards of the NLEP 2012, against the development standard at Clause 4.3 'Height of buildings', and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the B3 Commercial Core zone in which the development is proposed to be carried out; and
- B. That the DAC as the consent authority note the objection under Clause 4.6 Exceptions to development standards of the NLEP 2012, against the development standard at Clause 7.4 'Building separation', and considers the objection to be justified in the circumstances and to be consistent with the intent of Clause 7.4 and the objectives for development within B3 Commercial Core zone in which the development is proposed to be carried out; and
- C. That the DAC as the consent authority note the objection under Clause 4.6 Exceptions to development standards of the NLEP 2012, against the development standard at Clause 7.10 'Floor space ratio for certain development in Area A', and considers the objection to be justified in the circumstances and to be consistent with the intent of Clause 7.10 and the objectives for development within B3 Commercial Core zone in which the development is proposed to be carried out; and

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D. That DA2022/00448 for alterations and additions to approved mixed-use development (commercial, retail and shop top housing) comprising alterations to approved floor plans and three additional floors of shop top housing above the approved structure at 10 Dangar Street Wickham be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment C**; and

E. That those persons who made submissions be advised of CN's determination.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Nil.

Carried

**ITEM-29 DAC 06/12/22 - 204 UNION STREET THE JUNCTION -
DA2021/01107 - CENTRE BASED CHILD CARE FACILITY
INCLUDING TREE REMOVAL**

MOTION

Moved by Cr Barrie, seconded by Cr McCabe

A. That DA2021 be approved, and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment C**; and

B. That those persons who made submissions be advised of CN's determination.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Nil.

Carried

**ITEM-30 DAC 06/12/22 – NOTICE OF RECOMMENDATION TO HUNTER
CENTRAL COAST REGIONAL PLANNING PANEL – DA2018/01351
– WINTEN DEVELOPMENT – RESIDENTIAL SUBDIVISION AT 144
& 177 WOODFORD ROAD, & 610 MINMI ROAD MINMI**

Councillors Duncan, Mackenzie, Pull and Winney-Baartz left the meeting for discussion on the item.

In moving the motion, Councillor Adamczyk moved an additional Part 2:

MOTION

Moved by Cr Adamczyk, seconded by Cr Richardson

That the Development Applications Committee:

- 1 Notes the recommendation for determination and associated assessment report relating to DA2018/01351, which has been presented to the HCCRPP for consideration.
- 2 Supports the officer's recommendations for refusal as outlined at Attachment B:
 - 1 The development is not generally consistent with the terms of the approval of the concept plan (MP10_0090) dated 6 August 2013. [Clause 3B(2)(d) in Schedule 2 'Transferred transitional arrangements on repeal of Part 3A – former Schedule 6A to the Act' of Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017.
 - 2 Transport for New South Wales opposes the development as it fails to demonstrate that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land or the nature, volume or frequency of vehicles using the classified road to gain access to the land. [Section 4.15(1)(a)(i) Environmental Planning and Assessment Act 1979].
 - 3 The development is contrary to the public interest as it has not been demonstrated that there will be no impacts on traffic safety, efficiency or ongoing operation of the classified or wider regional road network or that any impacts can be appropriately mitigated to the satisfaction of Transport for NSW. [Section 4.15(1)(e) Environmental Planning and Assessment Act 1979].
 - 4 The application does not include sufficient information to demonstrate the impact on the natural or built environment resulting from works associated with any road upgrades determined as appropriate by Transport for NSW to mitigate the impacts of the development on traffic safety, efficiency or ongoing operation of the classified or wider regional road network. [Section 4.15(1)(b) Environmental Planning and Assessment Act 1979].
 - 5 The development fails to comply with the requirements of Clause 5.21 'Flood Planning' of the Newcastle Local Environmental Plan 2012. [Section 4.15(1)(a)(i) Environmental Planning and Assessment Act 1979].
 - 6 The development is not in the public interest having regard to the modelled future flood impacts and resulting overtopping of proposed public roads in Stages 37, 39 and 40 and the associated risks to the public during flood events. [Section 4.15(1)(e) Environmental Planning and Assessment Act 1979].
 - 7 The application has not provided sufficient information to determine that the risk of mine subsidence can be eliminated or mitigated to the requirements of Subsidence Advisory NSW and the impact on the natural and built environment of any works required to meet the requirements of

Subsidence Advisory NSW have not been adequately demonstrated. [Section 4.15(1)(b) Environmental Planning and Assessment Act 1979].

- 8 The application has not provided sufficient information to demonstrate that there will be no significant adverse impacts on sensitive noise receivers in regard to road traffic noise or sufficient details provided on how any proposed mitigation measures are to be implemented. [Section 4.15(1)(b) Environmental Planning and Assessment Act 1979].
- 9 The development is not in the public interest having regard to the proposed twin pipe stormwater drainage diversion of the western watercourse coming from under the M1 Motorway in the vicinity of Stage 37 due to the loss of continuous riparian corridor and the unreasonable financial burden placed on City of Newcastle associated with maintenance of the proposed twin pipe stormwater drainage diversion. [Section 4.15(1)(e) Environmental Planning and Assessment Act 1979].

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, McCabe, Richardson, Wark, and Wood.

Against the Motion:

Nil.

Carried

Councillors Duncan, Mackenzie, Pull and Winney-Baartz returned to the meeting at the conclusion of the item.

**ITEM-26 DAC 06/12/22 - 7 GWYDIR ROAD NEW LAMBTON -
DA2022/00513 - DUAL OCCUPANCY - INCLUDING ONE
INTO TWO LOT SUBDIVISION AND DEMOLITION OF
EXISTING STRUCTURES**

Councillor Church left the meeting for discussion on the item.

MOTION

Moved by Cr McCabe, seconded by Cr Mackenzie

- A. That development application DA2022/00513 for a dual occupancy and Torrens title subdivision at 7 Gwydir Road, New Lambton be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**.
- B. That those persons who made submissions be advised of CN's determination.
- C. The following additional two conditions be placed on the consent to address privacy concerns.

1. The upper floor level window openings and privacy screens on the northern elevation are to be amended to highlight window openings with a windowsill height of 1.5m measured from the finished floor level.
2. An additional 300mm of lattice is to be provided above the proposed 1.8m high rear boundary fence and a portion of the east and west boundary fence as highlighted on the ground floor plan dated 23 November 2022.

At this stage of the meeting, Councillor Wark declared a non-pecuniary significant interest in Item 26 – 7 Gwydir Road, New Lambton, DA2022/00513 – Dual Occupancy including one into two lot subdivision and demolition of existing structures stating that the objector was known to her, and she left the Chamber for the remainder of discussion.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillor Barrie.

Carried

Councillors Church and Wark did not return prior to the close of the meeting.

The meeting concluded at 7.41pm.

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