



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 15 November 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**

8 November 2022

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In participating in this Meeting, Councillors are reminded of their oath or affirmation of office made under section 233A of the Local Government Act 1993, and of their obligations under City of Newcastle's Code of Conduct for Councillors to disclose and appropriately manage conflicts of interest.

**PUBLIC VOICE COMMITTEE
15 November 2022**

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PUBLIC VOICE SESSIONS

ITEM-1 PV 15/11/22 – 7 GWYDIR ROAD NEW LAMBTON – DA2022/00513 - DUAL OCCUPANCY - INCLUDING ONE INTO TWO LOT SUBDIVISION AND DEMOLITION OF EXISTING STRUCTURES

APPLICANT: ANTHONY JOHN COLLINS
OWNER: J D ZVICER, V ZVICER, R M GOODWIN
REPORT BY: PLANNING & ENVIRONMENT
CONTACT: INTERIM EXECUTIVE DIRECTOR, PLANNING & ENVIRONMENT / ACTING MANAGER, PLANNING, TRANSPORT & REGULATION

PURPOSE

A Development Application (DA2022/00513) has been received seeking consent for a dual occupancy and Torrens Title subdivision at 7 Gwydir Road New Lambton.

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

The application is referred to the Development Applications Committee (DAC) for determination due to the application being called in by Councillor Wood and Councillor Clausen.



Subject Land: 7 Gwydir Road New Lambton

The proposed development was publicly notified in accordance with City of Newcastle’s (CN) Community Participation Plan (CPP) and seven submissions were received.

The applicant subsequently submitted amended plans which were not required to be notified in accordance with CN's CPP. However, the amended plans were made available on DA tracker, and four submissions from previous objectors, were received in response.

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

- i) Bulk and scale.
- ii) Privacy.
- iii) Density.

- iv) Minimum lot size.
- v) View loss.
- vi) Local character.
- vii) Car parking.
- viii) Solar access and overshadowing.
- ix) Impact on property values.
- x) Impact on heritage.
- xi) Fencing.
- xii) Impact of construction.

Further details of the issues raised by the objectors is provided at **section 4.0**.

1.0 THE SUBJECT SITE

The site consists of a single allotment known as 7 Gwydir Road New Lambton, and is legally described as Lot B, DP367917. The subject site has a total area of 548.6m² and a 20.1m wide street frontage. The site is rectangular in shape with a gentle slope towards the northern boundary.

Existing improvements on site comprise a single storey weatherboard dwelling house. The site contains no declared vegetation or street trees at the front of the property. The surrounding allotments consist of predominantly single dwelling houses with several dual occupancy, multi-dwelling housing and residential flat building developments in the broader area.

The site is zoned R2 Low Density Residential under the Newcastle Local Environmental Plan 2012 (NLEP 2012) and the proposed development is permissible in the zone.

2.0 THE PROPOSAL

The applicant seeks consent to demolish the existing dwelling house and erect a two-storey dual occupancy development with integrated car parking and Torrens Title subdivision.

Further details are as follows:

- i) Two detached dwelling houses comprising four bedrooms, two bathrooms, open plan living, kitchen, dining, and single garages with carport.
- ii) A driveway crossing in each lot to Gwydir Road.
- iii) Associated landscaping and stormwater system.
- iv) One into two lot Torrens Title subdivision.

Amended plans were received in response to concerns from CN regarding Floor Space Ratio (FSR), local character, side setbacks, garage door widths and streetscape, privacy, landscaping, and response to objections received. The following assessment is based on the amended plans.

A copy of the current amended 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 between 23 May and 6 June 2022. In response, seven submissions were received.

The applicant subsequently submitted amended plans which were not required to be notified in accordance with CN's CPP. However, the amended plans were made available on DA tracker, and four submissions from previous objectors, were received in response.

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

a) Subdivision requirements

- i) That the development does not achieve the minimum lot size of 400m², and that Clause 4.1A 'Exceptions to the Minimum Lot Size' under NLEP 2012 does not apply to the proposal.
- ii) The proposed lot frontage is below the Newcastle Development Control Plan 2012 (NDCP 2012) requirement of 12m.

b) Density, bulk and scale

- i) The application proposes a 0.59:1 FSR and the maximum allowable for the site 0.6:1. The proposed bulk, scale and density of the proposed development is not acceptable.

c) Local character and zone objectives

- i) The development does not satisfy the objectives of the zone including that the proposal does not respect the amenity, heritage, and character of the surrounding development.

d) Solar access and overshadowing

- i) The extent of overshadowing to adjoining properties is unacceptable.

e) Privacy and view loss

- i) Privacy of adjoining properties will be impacted because of the development.

j) Parking and garages

- i) Submissions raised concerns that the original proposal included double garages.

k) Miscellaneous

- i) Impact on property values
- ii) Fencing
- iii) Impact of construction

4.0 DEVELOPMENT OFFICER PLANNING ASSESSMENT

The submitted application has been assigned to Development Officer (Planning), Bianca Fyvie for assessment.

Subdivision requirements

The submissions raised concerns that the proposal does not achieve the minimum subdivision size requirements and that Clause 4.1A of NLEP 2012 does not apply. However, NLEP 2012 Clause 4.1A is applicable to the development as a dual occupancy shall be built on the site prior to the subdivision of the land and the lots are larger than 200sqm.

Density, bulk, and scale

During the assessment concern was raised with the zero setback to the side setback to the western boundary, which was not supported and was amended to provide a 0.9m setback in accordance with NDCP 2012 acceptable solutions.

The proposed setback to side and rear boundaries (including building envelopes) has been assessed as consistent with relevant performance requirements of Section 3.03.01. of the NDCP 2012.

The proposal does not exceed the permissible height and FSR. Dual occupancies are a permissible use in the R2 Zone. The proposal generally meets NDCP 2012 requirements regarding landscaping, with a minor encroachment to the eastern side setback.

Local character and zone objectives

The proposed development is permissible with consent within the applicable land use zone and does not seek to contravene the principal development standards afforded to the allotment under NLEP 2012.

The site is not located within a heritage conservation area and is not identified as a local heritage item. The proposed development generally complies with the objectives and controls of the NDCP 2012.

Solar access and overshadowing

Submissions raised concern regarding solar access and overshadowing to adjoining properties. However, due to the north-south orientation of the site and the placement

of the first-floor portion of the development towards the front of the lot, the impact of any overshadowing to adjoining properties is minimal.

Shadow diagrams submitted demonstrate that the principal area of private open space and the north facing windows to any living room of all adjoining properties can retain at least two hours of solar access between 9am and 3pm during the winter solstice in accordance with requirements of NDCP 2012.

The impact of existing solar panels on 9 Gwydir Street has also been assessed, with shadow diagrams indicating the proposal will not overshadow the solar panels at any time between 9am and 3pm on winter solstice.

Privacy and view loss

Submissions raised concerns with respect to privacy and view loss. The proposed orientation and siting of the development and the inclusion of additional privacy attenuation measures (raised sill heights, privacy screens, small window sizes, setback more than 6m from rear boundary on first floor levels) have been incorporated into the design in response to privacy concerns. The proposal does not result in the loss of important views or outlooks and is under the permissible height limit. The proposed height equates to 7.59m.

Parking and garages

The proposed design was amended to remove the double garages and provide a single garage and single carport to reduce the overall dominance of the garages and ensure car parking was integrated into the overall design. The proposed car parking complies with the objectives and controls of the NDCP 2012.

Miscellaneous

Property values - Concerns regarding impacts to property values are not a matter of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Fencing - Fencing is a civil matter dealt with under *the Dividing Fences Act* by affected landowners. The colour and type of fencing shown in the rendered elevations are indicative only and are not specifically approved as part of the development application.

Impact during construction process - Impacts during the demolition and construction process are considered temporary. Should the application be approved conditions of consent would be imposed to limit potential impacts experienced during the construction phase.

The above issues, and matters raised in the received submissions, will be addressed in a comprehensive planning assessment report to be submitted to the Development Application Committee for consideration and determination.

ATTACHMENTS

Item 1 Attachment A: Amended Architectural Plans – 7 Gwydir Road New Lambton

Item 1 Attachment A distributed under separate cover