

CITY OF NEWCASTLE

Minutes of the Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street Newcastle on Tuesday 18 February 2020 at 7.12pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors J Church, D Clausen, C Duncan, J Dunn, B Luke, J Mackenzie, A Robinson, A Rufo, E White and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), B Smith (Director Strategy and Engagement), F Leatham (Director People and Culture), A Jones (Interim Director City Wide Services), J Rigby (Manager Assets and Projects), E Kolatchew (Manager Legal), M Bisson (Manager Regulatory, Planning and Assessment), D Moldrich (Manager Customer Experience), S Moore (Acting Chief Financial Officer), S Grierson (Manager Transport and Compliance), P McCarthy (Urban Planning Section Manager), Joe Vescio (Executive Officer, Chief Executive Office), M Murray (Chief of Staff, Lord Mayor's Office), A Knowles (Council Services/Minutes) and J Redriff (Council Services/Webcasting).

APOLOGIES

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Church

The apologies submitted on behalf of Councillors Byrne and Elliott be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Clausen

Councillor Clausen declared a less than significant, non-pecuniary interest in Item 3 DA2002/1583.01 - 31 Throsby Street Wickham and Item 7 DA2017/00681.01 - 18 Grey Street Wickham as he had a friendship with a person who owned property on Union Street near the two development application sites and remained in the Chamber for discussion on the item.

Councillor Dunn

Councillor Dunn declared a conflict of interest in Item 6 DA2003/2991.01 – 89 Park Avenue Kotara as his clients were tenants in the applicants building and managed the conflict by removing himself from the Chamber for discussion on the item.

Councillor Winney-Baartz

Councillor Winney-Baartz declared a significant non-pecuniary interest in Item 4 DA2018/01251 – 150 Darby Street, Cooks Hill and managed the conflict by leaving the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 3 DECEMBER 2019
MINUTES - EXTRAORDINARY DEVELOPMENT APPLICATIONS COMMITTEE 10 DECEMBER 2019

MOTION

Moved by Cr Mackenzie, seconded by Cr Robinson

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

**Carried
unanimously**

DEVELOPMENT APPLICATIONS

**ITEM-1 DAC 18/02/20 - DA 2019/00962 - 65 GIPPS STREET,
CARRINGTON - ALTERATIONS AND ADDITIONS TO
DWELLING HOUSE**

Councillor Rufo was absent from the Chamber for discussion on the item.

MOTION

Moved by Cr Mackenzie, seconded by Cr Dunn

- A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of NLEP 2012, against the development standard at Clause 4.4 FSR, 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 DA2019/00962 for alterations and additions to dwelling house at 65 Gipps Street Carrington 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 Church, Clausen, Duncan, Dunn, Luke, Mackenzie, Robinson, White and Winney-Baartz.

Against the Motion: Nil.

Carried

Councillor Rufo returned to the Chamber at the conclusion of the item.

- iv The Interpretation Plan must be implemented, with written confirmation from the Council, prior to the issue of the Occupation Certificate.

and

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

Councillor Luke gave notice of a foreshadowed motion.

Councillor Mackenzie gave notice of a foreshadowed motion.

The motion moved by Councillor Clausen and seconded by Councillor Mackenzie was put to the meeting.

For the Motion: Councillors Clausen and Dunn.

Against the Motion: Lord Mayor, Cr Nelmes and Councillors Church, Duncan, Luke, Mackenzie, Robinson, Rufo and White.

Defeated

In moving the motion, Councillor Luke stated he was moving the Officers Recommendations.

MOTION

Moved by Cr Luke, seconded by Cr Robinson

- A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of 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 B4 Mixed Use zone in which the development is proposed to be carried out;
- B. That DA2018/01251 for demolition of the existing building and construction of a mixed use development comprising a commercial space on the ground floor and nine residential units above including associated car parking at 150 Darby Street Cooks Hill 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.

For the Motion: Councillors Church, Dunn, Luke, Robinson and Rufo.

Against the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Duncan, Mackenzie and White.

Defeated

The Lord Mayor exercised the use of the Chair's casting vote and declared the motion defeated.

MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

A. That DA2018/01251 for demolition of the existing building and construction of a mixed use development comprising a commercial space on the ground floor and nine residential units above including associated car parking at 150 Darby Street Cooks Hill, be refused, for the following reasons:

- i) The proposed development is not consistent with the provisions of Newcastle Local Environmental Plan 2012, with respect to the height of buildings development standard, and the proposal to vary that development standard is not justified.
- ii) The proposed development will have an unreasonable impact on the built environment in the locality of the site, in terms of character, height, bulk, scale and visual appearance.
- iii) The proposed development is contrary to the public interest, with respect to the proposed variation to the height of buildings development standard of Newcastle Local Environmental Plan 2012, with respect to the impact on the built environment in the locality of the site.

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

For the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Duncan, Mackenzie and White.

Against the Motion: Councillors Church, Dunn, Luke, Robinson and Rufo.

Carried

The Lord Mayor exercised the use of the Chair's casting vote and declared the motion carried.

ITEM-5 **DAC 18/02/20 - DA2019/00062.01 - 8 LINGARD STREET, MEREWETHER - MODIFICATION - CHANGE TO PARKING NUMBERS AND LAYOUT - CONSENT CONDITIONS - MODIFICATION - CHANGE TO PARKING NUMBERS AND LAYOUT - CONSENT CONDITIONS**

MOTION

Moved by Cr Mackenzie, seconded by Cr Dunn

- A. That the Development Applications Committee note the proposed variation to the development standard at Clause 4.4 Floor Space Ratio, and consider the proposed variation to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the B5 Business Development zone in which the development is proposed to be carried out; and
- B. That DA2019/00062.01 to modify Development Consent DA2019/00062 for a health services facility at 6-8 Lingard Street, Merewether be approved, and consent granted, subject to compliance with the modified consent set out in the Draft Schedule of Conditions at **Attachment B**.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Church, Clausen, Duncan, Dunn, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

Against the Motion: Nil.

Carried

ITEM-6 **DAC 18/02/20 - DA2003/2991.01 - 89 PARK AVENUE, KOTARA - MODIFY - OUTSIDE CORE TRADING HOURS AND ACCESS**

Councillor Dunn left the Chamber for discussion on the item.

MOTION

Moved by Cr Robinson, seconded by Cr Mackenzie

- A. That DA2003/2991.01 to extend the closing times of the Cynthia Street and Lexington Parade driveways until 10.00pm (daily) be approved and consent granted, subject to a 1-year trial period to monitor and review the ongoing management performance of the complex and any unforeseen impacts, within a limited timeframe.
- B. That those persons who made submissions be advised of CN's determination.

Councillor Clausen put forward an amendment to include an alternate condition.

AMENDMENT

Moved by Cr Clausen

To include the following conditions.

- 2.17 a) The Cynthia Street driveways and the southern driveway in Lexington parade are to be closed to traffic by means of a locked gate at 6:00pm each evening, except Thursdays, on which day such driveways are to be closed to traffic after 9:30pm. Appropriate signage is to be placed at these driveways indicating the driveway closing time.
- b) Notwithstanding (a) above, the use of Cynthia Street driveways and the southern driveway in Lexington parade may operate to 10:00pm Mondays to Sundays, for a trial period of one year from the date of issue of this modification. During the trial period, noise monitoring is to be conducted by an appropriately qualified acoustic consultant to determine traffic noise impacts at the most affected residential receivers on Lexington Parade. The monitoring is to be conducted quarterly, after commencement of the trial period, and for a period of no less than seven days during the month of November and again in December. The said consultant is to report on each monitoring event in accordance with the assessment and reporting methodology outlined in Appendix B of the DECCWNSW *Road Noise Policy – measurements and preparing a noise assessment report*, within one month of carrying out each monitoring event. The report must also compare the monitoring results with noise level predictions provided in the report by Acoustic Logic dated 24/01/2020 (Document Reference 20190449.2/2401A/R8/VF).
- c) Formal advice of the commencement of the trial period provided for at subsection b) of this condition is to be submitted to the City of Newcastle within seven days of such commencement.
- d) A copy of each of the monitoring reports required at subsection b) of this condition is to be submitted to the City of Newcastle and the members of the Community Consultative Group within seven days of completion of the relevant report.
- e) A further application may be lodged to continue the operating hours outlined in subsection b) of this condition. City of Newcastle's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the findings of the acoustic assessment reports outlined in subsection b) of this condition.

The mover and seconder accepted Councillor Clausen's amendment into the motion.

Councillor Duncan gave notice of a foreshadowed motion.

The motion moved by Councillor Robinson and seconded by Councillor Mackenzie, as amended, was put to the meeting.

For the Motion: Councillors Church, Clausen and Robinson.

Against the Motion: Lord Mayor, Cr Nelmes and Councillors Duncan, Luke, Mackenzie, Rufo, White and Winney-Baartz.

Defeated

MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

- A. That DA2003/2991.01 to extend the closing times of the Cynthia Street and Lexington Parade driveways until 10.00pm (daily) at 89 Park Avenue Kotara be refused, for the following reasons:
- i) The proposed development will unnecessarily create opportunities for invasive and offensive noise to affect the residential amenity of the surrounding residential area, during the evening period.
 - ii) The proposed development will have an unreasonable social impact in the locality, through the expansion of off-site activity associated with the operation of the shopping centre, during the evening period.
 - iii) Submissions received in response to public notification of the development application have raised issues of a nature and extent that establish that the proposed development will have unreasonable impacts, including the expansion of amenity, traffic and parking impacts that arise from the operation of the shopping centre, beyond the core operating hours of the shopping centre, throughout the evening period.
- B. That those persons who made submissions be advised of CN's determination.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Duncan, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

Against the Motion: Councillor Church.

Carried

ITEM-7 DAC 18/02/20 - DA2017/00681.01 - 18 GREY STREET, WICKHAM - MIXED USE DEVELOPMENT - MODIFICATION - ADDITIONS COMMUNAL ROOF TOP TERRACE

MOTION

Moved by Cr Mackenzie, seconded by Cr Robinson

- A. That the Development Applications Committee note the variation to the height of buildings development standard under NLEP 2012 and consider the variation to be justified;

- B. That DA2017/00681.01 to modify the approved mixed use development, including an addition of roof top communal terrace area at 18 Grey Street, Wickham be approved and consent be granted, subject to compliance with the conditions set out in the Schedule of Conditions at **Attachment B**; and
- C. That those persons who made submissions be advised of Council's determination.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Church, Clausen, Duncan, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

Against the Motion:

Nil.

Carried

Councillor Dunn did not return to the Chamber prior to the conclusion of the meeting.

The meeting concluded at 8.04pm.

I certify that pages 1-10 of the Development Applications Committee Meeting Minutes dated 18 February 2020, were confirmed, and/or amended, by the Development Applications Committee meeting 17 March 2020.

**Cr N Nelmes
LORD MAYOR**