



City of
Newcastle



CITY OF NEWCASTLE

Development Applications Committee

Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that a Development Applications Committee Meeting will be held on:

DATE: Tuesday 28 April 2020

TIME: 6.00pm

VENUE: Audio Visual platform Zoom

J Bath
Chief Executive Officer

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

21 April 2020

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DEVELOPMENT APPLICATIONS COMMITTEE
28 April 2020

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NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE MEETING - 17 MARCH 2020

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 200317 Development Applications Committee

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au

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 17 March 2020 at 9.08pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, K Elliott, 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), K Hyland (Manager Major Events and Corporate Affairs), M Murray (Chief of Staff, Lord Mayor's Office), A Knowles (Council Services/Minutes) and K Sullivan (Council Services/Webcasting).

APOLOGIES

MOTION

Moved by Cr Clausen, seconded by Cr Byrne.

The apologies submitted on behalf of Councillors Dunn and Luke be received and leave of absence granted.

**Carried
unanimously**

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Church

Councillor Church declared a less than significant, non-pecuniary interest in Item 9 – DA2019/00998 – 19 High Street, The Hill as he was familiar with the applicant and a neighbour and managed the conflict by removing himself from the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

**MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE MEETING - 18
FEBRUARY 2020**

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

The draft minutes as circulated be taken as read and confirmed with the following amendment to record Councillor Mackenzie as voting against the motion for Item 4 – DA2018/01251 – 150 Darby Street, Cooks Hill.

Carried

DEVELOPMENT APPLICATIONS

ITEM-8 DAC 17/03/20 - DA2018/01460.01 - 11 ROWAN LANE, MEREWETHER - MODIFICATION TO FOUR STOREY DWELLING AND ASSOCIATED SITE WORKS - CHANGES TO FLOOR LEVEL AND ROOF PITCH

MOTION

Moved by Cr Robinson, seconded by Cr Byrne

- 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 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 DA2018/01460.01 to modify the approved development, including revised floor levels and roof pitch at 11 Rowan Lane Merewether be approved and modified 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 Byrne, Church, Clausen, Duncan, Elliott, Mackenzie, Rufo, Robinson, White and Winney-Baartz.

Against the Motion:

Nil.

**Carried
unanimously**

ITEM-9 DAC 17/03/20 - DA2019/00998 - 19 HIGH STREET, THE HILL - ALTERATIONS AND ADDITIONS TO DWELLING HOUSE

Councillor Church left the Chamber for discussion on the item.

MOTION

Moved by Cr Robinson, seconded by Cr Winney-Baartz

- 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 R2 Low Density Residential zone in which the development is proposed to be carried out; and

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- B. 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 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 R2 Low Density Residential zone in which the development is proposed to be carried out; and
- C. That DA2019/00998 for alterations and additions to dwelling house at 19 High Street The Hill 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 Byrne, Clausen, Duncan, Elliott, Mackenzie, Rufo, Robinson, White and Winney-Baartz.

Against the Motion:

Nil.

Carried

Councillor Church did not return to the Chamber prior to close of the meeting.

The meeting concluded at 9.13pm.

DEVELOPMENT APPLICATIONS

**ITEM-10 DAC 28/04/20 - DA2019/00603 - 26 SMITH STREET,
HAMILTON SOUTH**

**APPLICANT: L WILKINSON & M J WILKINSON
OWNER: L WILKINSON & M J WILKINSON
NOTE BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY,
PLANNING AND ASSESSMENT**

PART I

BACKGROUND

An application has been received seeking consent for alterations and additions to dwelling house and ancillary structures at 26 Smith Street Hamilton South.

The submitted application was assigned to Principal Development Officer David Lamb for assessment.

The application is referred to the Development Applications Committee for determination, due to the number of public submissions received. A total of 40 submissions were received objecting to the proposal and 5 submissions were received in support of the proposal.



Subject Land: 26 Smith Street Hamilton South

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

The objectors' concerns include:

- i. Impact of the development on the heritage significance of the heritage conservation area
- ii. Amenity impacts
- iii. Streetscape setting and appearance
- iv. Privacy impacts
- v. Overshadowing
- vi. Loss of landscaping
- vii. Bulk and scale
- viii. Character
- ix. Overdevelopment of the site
- x. Materials and details

- xi. Setback of the swimming Pool
- xii. Unauthorised works to the existing dwelling

The proposal was considered at a meeting of the Public Voice Committee on 17 March 2020. The Public Voice Committee heard from one adjoining neighbour who raised concern about the impact of the development on the heritage significance of the Hamilton South Heritage Conservation area. The concerns discussed at the Public Voice Committee and a response to these issues are addressed as part of the Planning Assessment at Section 5.0.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Planning Assessment at Section 5.0.

Issues

- 1) Impact of the development on the heritage significance of the Hamilton South Heritage Conservation Area.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is considered to be acceptable subject to compliance with appropriate conditions.

RECOMMENDATION

- A. That application for alterations and additions to dwelling house and ancillary structure at 26 Smith Street Hamilton South be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B; and
- B. That those persons who made submissions be advised of CN's determination.

Political Donation / Gift Declaration

Section 10.4 of the *Environmental Planning and Assessment Act 1979* requires a person to disclose "*reportable political donations and gifts made by any person with a financial interest*" in the application within the period commencing two years before the application is made and ending when the application is determined. The following information is to be included on the statement.

- a) all reportable political donations made to any local Councillor of Council; and
- b) all gifts made to any local Councillor or employee of that Council

The applicant has answered No to the following question on the application form:

Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?

PART II

1.0 THE SUBJECT SITE

The subject property comprises Lot 24 DP 37567 and is a rectangular allotment located with primary frontage of 14.324m to Smith Street and a secondary frontage of 36.982m to Jenner Parade. The allotment has a total area of 528.6m². The site has a minor fall to the rear (south-west) and is occupied by a residential dwelling.

Development in the vicinity of the subject property predominantly consists of low-density residential single storey and 2 storey dwellings. The subject allotment is located in the Hamilton South Heritage Conservation Area.

2.0 THE PROPOSAL

The applicant seeks consent for alterations and additions to dwelling house and ancillary structures (garage and pool).

In respect to the original design the assessing officer raised concerns in terms of heritage, form, bulk, scale and streetscape impacts and requested that the proposal be redesigned accordingly.

In response to the assessing officers request, the applicant submitted additional information which has amended the proposal as follows:

1. The bulk and scale of the additions has been reviewed with respect to both the Smith Street and Jenner Parade streetscapes. The reduced levels of the contributory building, including ridge and eaves levels, have been used as reference in the amended development, and the additions have been reduced in scale along the Jenner Parade frontage.
2. The massing, materiality and detailing of the two-storey element has been simplified and differentiated from the existing contributory building.
3. The link to the additions has been reduced in scale to distinguish the existing contributory building from new works.
4. The fenestration of the additions has been amended to relate to the principles of development in a heritage conservation area.
5. Fences and the vehicular crossover have been amended in accordance with Council's relevant heritage conservation provisions (Section 6.02 of the NDCP2012).

6. Horizontal sunshade devices have been included to the south elevation of the two-storey element to offset the verticality of the cladding and relieve the scale and form of the additions.

A copy of the amended plans is appended at Attachment A. The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to Attachment C).

3.0 PUBLIC NOTIFICATION

The original application was publicly notified in accordance with CN's Public Participation Policy. 22 submissions by way of objection were received in response.

The amended application was publicly notified in accordance with CN's Public Participation Policy. 40 submissions of objection and 5 submissions of support were received in response. The concerns raised by the objectors in respect of the proposed development are summarised as follows:

a) Statutory and Policy Issues

- i) Impact of the development on the heritage significance of the heritage conservation area

b) Amenity Issues

- i) Amenity impacts
- ii) Streetscape setting and appearance
- iii) Privacy impacts
- iv) Overshadowing
- v) Loss of landscaping

c) Design and Aesthetic Issues

- i) Bulk and scale
- ii) Character
- iii) Overdevelopment of the site
- iv) Materials and details
- v) Setback of the swimming pool

d) Miscellaneous

- i) Unauthorised works to the existing dwelling

The objectors' concerns are addressed under the relevant matters for consideration in the following section of this report.

4.0 INTEGRATED DEVELOPMENT

The proposal is not '*integrated development*' pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979*.

5.0 PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

5.1 Provisions of any environmental planning instrument

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

SEPP 55 requires that where land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

City of Newcastle's (CN) records do not identify any past contaminating activities on the site. The subject land is currently being used for residential purposes and CN's records do not identify any past contaminating activities on the site.

The proposal is acceptable having regard to this policy.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) is one of a suite of Land Management and Biodiversity Conservation (LMBC) reforms that commenced in New South Wales on 25 August 2017. The Vegetation SEPP (the SEPP) works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW. Part 3 of the Vegetation SEPP contains provisions similar to those contained in cl.5.9 of NLEP 2012 (now repealed) and provides that Council's DCP can make declarations with regards to certain matters, and further that Council may issue a permit for tree removal.

The subject site is clear of any native trees or vegetation. The applicant does not propose the removal of any vegetation in order to facilitate the development. The proposal is acceptable having regard to this policy.

**State Environmental Planning Policy (Coastal Management) 2018
(Coastal Management SEPP)**

SEPP Coastal Management applies to the subject site. Having regard to the relevant aims of the policy, the proposed development will not detrimentally impact the coastal zone or the environmental assets of the coastal environment area.

The proposed development will not adversely impact the biophysical, hydrological or ecological environment, nor geological coastal processes and features. The proposed development will not impact the water quality of sensitive coastal areas, and will not impact native flora, fauna or Aboriginal heritage.

A suitable stormwater design has been incorporated into the proposed development and effluent will be conveyed to the mains sewer. The proposal is acceptable having regard to this policy.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The proposal was required to be referred to Ausgrid in accordance with the ISEPP. The referral to Ausgrid generated no major concerns in respect of the application. The Ausgrid advice has been forwarded to the applicant for their information and future action.

The proposal is acceptable having regard to this policy.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was lodged with the application, demonstrating that the development can achieve the required water and energy reduction targets. A condition of consent has been recommended, requiring that the development be carried out in accordance with the BASIX Certificate.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

The following summarises an assessment of the proposal against the provisions of NLEP 2012 that are primarily relevant to the proposed development.

Clause 2.1 - Land Use Zones

The subject property is included within the R2 Low Density Residential zone under the provisions of NLEP 2012, within which zone the proposed development is permissible with CN's consent.

The proposed development is consistent with the objectives of the R2 Low Density Residential zone, which are

- a. To provide for the housing needs of the community within a low density residential environment.*

- b. To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- c. To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.*

Clause 2.7 - Demolition Requires Development Consent

The proposal includes the minor demolition of the structures on the site. Conditions are recommended to ensure demolition works and disposal of material are managed appropriately and in accordance with relevant standards.

Clause 5.10 - Heritage Conservation

The proposed development is located within the Hamilton South Heritage Conservation Area.

Alterations and additions are proposed to the existing bungalow dwelling which includes alterations and additions to the ground floor, a first-floor pavilion addition, an attached garage, pool and associated site works.

This clause requires Council to consider the effect of the proposed development on the heritage significance of the heritage conservation area prior to granting consent (Subclause 4).

Having regard to the submitted Statement of Heritage Impact and Council's relevant heritage conservation provisions (Section 6.02 of the Newcastle DCP 2012 and the technical manual, 'Heritage'), the proposed development will not adversely impact on the heritage significance of the Hamilton South Heritage Conservation Area. Refer to comments in heritage conservation area (Section 6.02) for an assessment of the proposal against Council's relevant heritage conservation provisions.

Clause 6.1 – Acid Sulfate Soils

The site is affected by Class 4 acid sulfate soils and the proposed development is considered satisfactory in this regard.

Clause 6.2 - Earthworks

The level of earthworks proposed to facilitate the development is considered to be acceptable having regard to this clause. The design suitably minimises the extent of proposed earthworks, having regard to the existing topography.

5.2 Any draft environmental planning instrument that is or has been placed on public exhibition

There is no exhibited draft environmental planning instrument relevant to the application.

5.3 Any development control plan

Newcastle Development Control Plan 2012 (NDCP 2012)

The main planning requirements of relevance in the NDCP 2012 are discussed below.

Single Dwellings and Ancillary Development - Section 3.02

The following comments are made concerning the proposed development and the relevant provisions of Section 3.02.

The proposed development is considered acceptable in relation to the abovementioned NDCP 2012 section and achieves relevant acceptable solutions and performance criteria for building form, building separation and residential amenity. The development establishes a scale and built form that is appropriate for its location. The proposal provides good presentation to the street with good residential amenity, while maintaining privacy for adjoining neighbours.

Street frontage appearance (3.02.03)

The proposed development maintains its setback to the primary road frontage and the proposed development maintains a suitable setback from the garage to the secondary road frontage.

Side/rear setbacks (building envelope) (3.02.04)

The proposed development maintains the existing setback of the development to the side boundary (north-east elevation). The proposed garage has a setback of 269mm to the rear boundary.

The building envelope provisions do not apply to the subject site as the relevant provisions of Section 6.02 (Heritage Conservation Areas) apply.

Landscaping (3.02.05)

The available landscaping areas within the front yard, between the dwelling and the proposed building and at the rear of the proposed building, are considered satisfactory and are considered to meet the performance controls of this section.

Private open space (3.02.06)

The dwelling is provided with adequate private open space which is usable and meets the needs of the occupants. Adequate private open space is provided to meet the performance controls of this section.

Privacy (3.02.07)

The dwelling has adequate privacy to the principal area of private open space and the windows of habitable rooms and does not unreasonably overlook living room windows or the principal area of private open space of neighbouring dwellings. It is considered that the development meets the performance criteria of this section with respect to privacy.

Solar access (3.02.08)

The proposed development does not significantly overshadow living area windows and principal areas of private open space of adjacent dwellings. It is considered that the development meets the performance criteria of this section.

View sharing (3.02.09)

The development is considered satisfactory regarding the performance criteria for view sharing.

Car parking and vehicular access (3.02.10)

Vehicular access and car parking areas comply with the provisions of AS2890 Parking facilities and Council's Standard Drawing and do not dominate the street.

The existing crossover will be retained and upgraded under this application.

Ancillary development (3.02.12)

The proposed development is considered satisfactory with respect to the proposed swimming pool, garage and the front fence replacement. Refer to comments in heritage conservation area (Section 6.02) for an assessment of the proposal against Council's relevant heritage conservation provisions.

Flood Management - Section 4.01

The amended proposal is acceptable in relation to flooding and Council's Engineer supports the proposal in this regard.

Mine Subsidence - Section 4.03

The site is located within a proclaimed Mine Subsidence District and conditional approval for the proposed development has been granted by Subsidence Advisory NSW.

Soil Management - Section 5.01

Site cut and fill has been proposed in accordance with this section. Erosion and sedimentation control plans have been provided. The proposed development is considered satisfactory in this regard.

Vegetation Management - Section 5.03

The proposal does not involve the removal of any trees. The proposed development is in proximity to an existing tree on an adjoining allotment.

In support of the proposed development, the applicant has submitted an arborist's report that details species, location, size, health and value. The report is prepared generally in accordance with CN tree assessment requirements and the proposed development is considered satisfactory.

Aboriginal Heritage - Section 5.04

Reference to the Aboriginal Heritage Information Management System confirmed that there are no sites of Aboriginal significance recorded on the site.

Heritage Conservation Areas - Section 6.02

The proposed development is located in the Hamilton South Heritage Conservation Area.

Given the prominent corner location in the Conservation Area, the applicant was required to demonstrate that the single storey scale of housing stock remained a defining feature of the proposed development in accordance with the desired future character statement.

The proposed alterations and additions have been designed in accordance with the relevant objectives and controls of Section 6.02 and will provide a suitable reuse of the building into the future.

Whilst a first-floor pavilion addition is proposed to the rear of the allotment, which will be visible from the secondary road frontage (Jenner Parade), it has been suitably demonstrated by the applicant that the contributory building has been reinstated and the additional works are subservient in bulk, scale, massing and form.

The applicant has opted to suitably, appropriately and subserviently differentiate the existing contributory bungalow dwelling from new works.

With respect to the principles of development in a heritage conservation area, it has been assessed that the proposed development is suitable and will not detrimentally impact the character or amenity of the area.

Alterations and additions in heritage conservation areas (6.02.01).

The proposed development has been designed having suitable regard to the retention of the existing development – the single storey bungalow has been maintained and reinstated, with the additions remaining simplified in profile and form, which are easily discernible from the contributory development.

The pavilion addition connects to the existing contributory building with a suitable single storey link. Whilst the applicant has proposed a first-floor addition to this corner allotment, the revised design has now incorporated minimum Building Code of

Australia floor-to-ceiling heights and a flat skillion roof. This reduces the scale of the development and will not significantly alter the character of the development when viewed from public places – namely the primary road frontage (Smith Street).

The reduced levels of the contributory building, including ridge and eaves levels, have been used as reference in the amended development with respect to the height of the parapet and the underside of the first-floor subfloor.

The setback of the development from the secondary road frontage (Jenner Parade) has taken cues from the existing roofscape; the low-pitched skillion roof (including parapet) and the setback of the first-floor addition have recessed the development behind the roofscape when viewed from Smith Street and the West Elevation.

The applicant has situated the bulk of the additions to the northern (side) boundary of the allotment, away from the secondary street frontage. The building massing and scale along the Jenner Parade streetscape is considered to be subservient given that the length of the addition is smaller than the length of the existing contributory development.

The single storey garage is considered suitable in this setting – the hip-roof of the garage compliments the roof form, pitch and proportions of the existing contributory dwelling.

The proposed development does not represent an overdevelopment of the site, nor an imposition on the significance of the heritage conservation area in accordance with the relevant objectives of this section.

Materials and details in heritage conservation areas (6.02.02).

The proposed development builds on materials, colours and details in the area. The existing development will be maintained and reinforced under this application. The proposed first-floor addition has been appropriately differentiated through incorporation of fibre cement cladding with expressed battens, timber windows and sheet metal roof – this materiality is considered compatible with the traditional bungalow aesthetic.

The proportion, orientation and form of the fenestration is considered sympathetic to the existing contributory development. The colour scheme for the proposed development has been assessed as neutral, which will not adversely impact the development in its context.

The simplified nature of the proposed development's materiality and detailing is considered appropriate in accordance with this section.

Accommodating vehicles in heritage conservation areas (6.02.03)

The garage fronting Jenner Parade is situated to the rear of the allotment and has interpreted the positive attributes of the existing contributory dwelling – that being, face brickwork and terracotta hipped roof with eaves.

The incorporation of two garage doors reduces the horizontal impact of the opening on the Jenner Parade streetscape. The driveway has incorporated a grass strip in the middle of the concrete hardstand, which is considered suitable in this setting. The applicant has proposed to upgrade the crossover under this application which is considered satisfactory.

Fences in heritage conservation areas (6.02.04)

A 1200mm front fence and 1800mm side boundary fence suitably reflects traditional fence design and is appropriate in this locality.

A condition of consent is proposed requiring the proposed fencing fronting the secondary frontage (south elevation) to be reduced to be a maximum height of 1800mm from existing ground level, along with materiality and transparency.

The proposed fencing will suitably address the relevant controls of this section.

Gardens in heritage conservation areas (6.02.05)

The proposed development has suitably maintained and reinforced landscaping to the allotment. It has been assessed the relationship between the dwelling and associated works to both the front and secondary street frontage boundaries remains unaffected under this application.

Traffic, Parking & Access - Section 7.03

The proposed development will provide a minimum of two on-site car parking spaces.

The crossover and layback over CN's verge can be achieved to CN requirements, subject to relevant conditions.

The proposal is acceptable having regard to this section.

Section 7.05 - Energy efficiency

The proposal is acceptable having regard to this section.

Stormwater- Section 7.06

The proposed stormwater management plan is in accordance with the relevant aims and objectives of this section.

Waste Management - Section 7.08

Demolition and waste management will be subject to conditions recommended to be included in any development consent to be issued.

Community Participation Plan

The original application was publicly notified and 22 submissions by way of objection were received in response.

The amended proposal was notified in accordance with the provisions of Council's Community Participation Plan. 40 submissions of objection and 5 submissions of support were received in response.

Refer to further discussion in Section 5.8 of this report.

5.4 Planning agreements

No planning agreements are relevant to the proposal.

5.5 The regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. In addition, a requirement to comply with AS2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

No Coastal Management Plan applies to the site or the proposed development.

5.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed development will not have any undue adverse impact on the natural or built environment.

The development is considered to be compatible with the existing character, bulk, scale and massing of development in the immediate area. Refer to heritage conservation area comments for justification in this regard.

It is considered that the proposal will not have any negative social or economic impacts.

5.7 The suitability of the site for the development

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise have any significant adverse impact on the natural environment.

The site is within a proclaimed Mine Subsidence District and conditional approval for the proposed development has been granted by Subsidence Advisory NSW.

The constraints of the site have been considered in the proposed development, which includes flooding, acid sulfate soils and heritage.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

5.8 Any submissions made in accordance with this Act or the regulations

The application was publicly notified and advertised in accordance with Council’s NDCP 2012 for a period of 14 days. The original application was publicly notified in accordance with CN’s Public Participation Policy. 22 submissions by way of objection were received in response. The amended application was publicly notified in accordance with CN’s Public Participation Policy. 40 submissions of objection and 5 submissions of support were received in response.

The key issues raised within the submissions have been discussed previously in this report. The following table provides a summary of the other issues raised in the submissions that have not already been discussed in this report and a response to those issues.

Issue	Comment
Unauthorised works to the existing dwelling	Council’s planning investigations officer inspected the site on 29 May 2019 and correspondence was issued to the owner on 13 February 2020. An investigation into this matter concluded that works completed to the existing dwelling were assessed to be exempt development, in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development) 2008.

The proposal was considered at the Public Voice. The following table provides a summary of the issues raised at Public Voice and a response to those issues.

Issue	Comment
The proposed development does not retain the important aspects of heritage conservation	<p>With respect to the nature of the first-floor addition, a merits-based assessment has been completed by the assessing officer in accordance with Section 6.02 of the Newcastle DCP 2012.</p> <p>The applicant has presented a development proposal that has addressed and responded to the following relevant aims of the section:</p> <p><i>3. To ensure that development activity within each heritage conservation area is commensurate with heritage significance and produces good design and liveable streetscapes.</i></p> <p><i>4. To ensure that all development has a positive effect on the character of heritage conservation areas.</i></p> <p><i>5. To provide clarity on the types of alterations and additions acceptable in each heritage conservation area.</i></p> <p><i>6. To ensure that proponents of development refer to the Heritage Technical Manual and State Heritage Inventory in the design of development proposals.</i></p>

	<p>7. <i>To identify when the adaptive re-use of existing buildings is suitable.</i></p> <p>8. <i>To integrate the principles of ecologically sustainable development with best practice heritage management.</i></p> <p>In addition, the subject proposal has addressed and responded to the relevant objectives of Section 6.02.01 of the Newcastle DCP 2012:</p> <p>1. <i>Contributory buildings are retained, recycled and adaptively reused, and their positive contribution to the area or streetscape is maintained. Reconstruct original features by removing unsympathetic alterations and additions or using more appropriate decorative treatment.</i></p> <p>4. <i>The architectural style of the host building(s) is reflected in the design of the additions and alterations.</i></p> <p>5. <i>Alterations and additions contribute positively to the streetscape and the setting of the host building.</i></p> <p>6. <i>Additions are designed to minimise the impact on the special qualities of the streetscape and the architectural style of the host building.</i></p> <p>7. <i>Additions are in proportion to the host building and conserve the scale of the building and the street.</i></p> <p>8. <i>Additions are not visible from the public domain unless the addition is architecturally outstanding.</i></p> <p>Whilst the relevant aims and objectives are open to interpretation, by addressing Council’s overarching heritage principles, the applicant has demonstrated that the proposed development has considered and addressed the important aspects of development in a heritage conservation area.</p>
<p>The Statement of Heritage Impact contains inconsistencies</p>	<p>The Statement of Heritage Impact has been prepared in accordance with the guidelines for ‘Statements of Heritage Impact’ (NSW Heritage Office) and is considered acceptable.</p>
<p>The proposed development is highly visible in the streetscape and will impact on Jenner Parade</p>	<p>With respect to this issue, the following has been considered:</p> <ul style="list-style-type: none"> • The visibility of the addition will be mitigated given the setback of the addition from Jenner Parade, the location of building bulk to the northern boundary and the height of the proposed side boundary fence. • The first-floor addition is smaller than the existing host dwelling in length, and the ridge height of the addition does not exceed the existing ridge height of the host dwelling. • The contribution of the secondary road frontage (Jenner Parade) is somewhat lessened due to the stormwater channel and the existing mature fig trees in this area.

	<ul style="list-style-type: none"> • The neutral colour scheme of the proposed development will aid in the development being recessive from the secondary road frontage. • The significant view of the dwelling is from Smith Street. The addition appears subservient to the host dwelling when viewed from the corner of Smith Street and Jenner Parade. • This assessment notes that neither Section 6.02 of the Newcastle DCP 6.02 nor the Heritage Technical Manual provide specific controls for development on corner sites; it has been suitably demonstrated by the applicant that the proposed development (as amended) has addressed the existing controls of Section 6.02.01, which are aimed at conserving the primary frontage. <p>Whilst it is acknowledged the proposed development may be visible from Jenner Parade, it is noted that any addition to a corner site will be visible from the secondary street frontage.</p> <p>As a new and discernible layer of the history of the development, the impact of development has sought to be mitigated through a site-specific response that has interpreted the positive attributes of heritage conservation development.</p>
<p>The single-story character of the area will not be maintained</p>	<p>The proposed development has suitably demonstrated that the existing contributory bungalow dwelling will be retained and incorporated into the development – the traditional building elements remain and will be reinstated under this application.</p> <p>In this respect, in accordance with the Desired Future Character Statement of the Hamilton South Heritage Conservation Area, the original single storey scale of the development will remain a defining feature.</p>
<p>Concern was raised that the form, materiality and detailing of the garage has not been applied to the development as a whole</p>	<p>With respect to form, the applicant has opted to pursue a contemporary design that is clearly differentiated from the existing house.</p> <p>The applicant has suitably demonstrated the rectilinear form has addressed the relevant objectives and controls of Section 6.02.01.</p> <p>With respect to materiality and detailing, Objective 2 of Section 6.02.02 of the Newcastle DCP 2012 is as follows: <i>2. Ensure selection of new materials and details compliment the local character.</i></p> <p>It has been demonstrated by the applicant that the materiality and detailing of the first-floor addition (fibre cement cladding with expressed battens, timber windows</p>

	<p>and sheet metal roof) is compatible with the traditional bungalow aesthetic.</p>
<p>Concern was raised that a broader assessment of the aesthetic significance / view corridors is required in the Statement of Heritage Impact to ascertain the heritage significance of the area</p>	<p>As nominated above, the Statement of Heritage Impact has been prepared in accordance with the guidelines for 'Statements of Heritage Impact' (NSW Heritage Office).</p> <p>The provided historical commentary, analysis of the dwelling and its fabric, and the Statement of Heritage Impact have suitably considered the dwelling in its context.</p>
<p>The proposed development has emphasised retention of the host building without careful consideration for the alterations and additions</p>	<p>With respect to this issue, the following has been considered with respect to the first-floor additions:</p> <ul style="list-style-type: none"> • The pavilion addition is connected to the existing contributory building with a single storey linked element, which bridges the existing contributory development and the new work. • Minimum floor-to-ceiling heights and a flat skillion roof have been proposed to reduce the scale of the development. • The reduced levels of the contributory building, including ridge and eaves levels, have been used as reference in the amended development with respect to the height of the parapet and the underside of the first-floor subfloor. • The ridge height of the addition does not exceed the existing ridge height of the host dwelling. • The setback of the development from the secondary road frontage (Jenner Parade) has taken cues from the existing roofscape; the low-pitched skillion roof (including parapet) and the setback of the first-floor addition have recessed the development behind the roofscape when viewed from Smith Street and the West Elevation. • The applicant has situated the bulk of the additions to the northern (side) boundary of the allotment, away from the secondary street frontage. • The building massing and scale along the Jenner Parade streetscape is subservient as the length of the addition is smaller than the length of the existing contributory development. <p>The bulk, scale, mass, form and proportions of the first-floor additions has provided a response consistent to the relevant controls of Section 6.02.01.</p>

	<p>It has been suitably demonstrated that the applicant has suitably considered the impact of the alterations and additions.</p>
<p>Concern was raised the character of area will be denigrated with juxtaposed / harsh contemporary additions to the rear (hybrid development), and how character is defined and interpreted</p>	<p>As discussed at Public Voice, it is noted and acknowledged that the interpretation of heritage conservation is varied in the community; it is also recognised that application of heritage conservation development will continue to evolve and be defined over time.</p> <p>The suitability of heritage conservation development is also a subjective matter.</p> <p>The application has proposed place-based additions that permits the additions to be interpreted as a definitive layer of the building which is in contrast to the existing contributory bungalow dwelling.</p> <p>It is considered that this proposal will maintain the important attributes of the character of the area, by providing a design response that has addressed the relevant aims and objectives of Section 6.02 of the Newcastle DCP 2012.</p> <p>By not integrating the additions into the existing massing of the existing development, the distinction between the way of life was lived (circa 1930) and the way life is now lived (2020) has been thoughtfully considered and addressed.</p>

5.9 The public interest

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

The development is in the public interest and will allow for the orderly and economic development of the site.

6.0 CONCLUSION

The proposal is acceptable against the relevant heads of consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in Attachment B are included in any consent issued.

ATTACHMENTS

Item 10 Attachment A: Submitted Plans - Under Separate Cover - 26 Smith Street Hamilton South

Item 10 Attachment B: Draft Schedule of Conditions - Under Separate Cover - 26 Smith Street Hamilton South

Item 10 Attachment C: Processing Chronology - Under Separate Cover - 26 Smith Street Hamilton South

Item 10 Attachments A to C distributed under separate cover