

MINUTES OF THE DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE OF UPPER HUNTER SHIRE COUNCIL HELD ON TUESDAY 14 APRIL 2020 VIA VIDEO CONFERENCE AT 10.00AM

PRESENT:

Cr Kiwa Fisher (Chair), Cr Sue Abbott, Cr Ron Campbell and Cr Lee Watts.

APOLOGIES:

Nil

IN ATTENDANCE:

Mayor Wayne Bedggood, Mr Mathew Pringle (Director Environmental & Community Services), Mrs Lisa Betts (Administration Assistant) and Mr James Watts (Public Participant, Item DESC.04.1)

ADOPTION OF MINUTES:

Development & Environmental Services Committee held on 10 March 2020.

Moved: Cr Watts

Seconded: Cr Abbott

CARRIED

DECLARATIONS OF INTEREST:

Nil

PUBLIC PARTICIPATION:

DESC.04.1 DA 15/2020 DUAL OCCUPANCY AND SUBDIVISION OF 1 LOT INTO 2 LOTS

Prior to consideration of agenda item DESC.04.1, Mr James Watts briefed the Committee on his concerns regarding the proposal which included:

- The small size of the proposed lots and the significant amount of area taken up by each dwelling.
- The small lot frontage
- The overall effect on amenity of the area.

Committee questions and comments:

- Cr Abbott:
Councillor Abbott supported Mr Watts' comments.
- Cr Watts:
In reference to Mr Watts' written submission, Cr Watts asked if his dwelling required a greater setback when constructed many years ago.

Mr Watts recalled that the setback was based on existing dwellings within close proximity to his land.

- Cr Campbell
Cr Campbell asked how the development would personally impact Mr Watts.

Mr Watts said the development would not necessarily impact him personally but that the development does have an impact on amenity of the area.

BUSINESS ITEMS:

DESC.04.1 DA 15/2020 DUAL OCCUPANCY AND SUBDIVISION OF 1 LOT INTO 2 LOTS

The Director Environmental & Community Services (Director), provided an overview of the proposal. He noted that there was a previous development consent granted for 3 dwellings on the site whereas the current application proposes 2 detached dwellings.

The Upper Hunter Local Environmental Plan (LEP) and Upper Hunter Development Control Plan (DCP) contain provisions that allow for this type of development and the proposal generally complies with the applicable controls. It was noted that the proposal does meet the minimum lot size for dual occupancy. There have been no changes to setbacks or minimum lot sizes since the LEP was adopted in 2013 and the DCP was adopted in 2015.

Mr Pringle advised that the proposal is in keeping with other development in the area and highlighted that urban planning principles encourage higher density housing closer to the centre of town. He mentioned several benefits of preventing urban sprawl and outlined why this was important.

In relation to the timing of the subdivision, it was confirmed that there is a proposed condition of consent requiring the occupation certificate to be issued for the dwellings prior to the issue of a subdivision certificate for the land.

Additional Committee questions and comments:

- Cr Watts:
Cr Watts asked how the building footprints compare between the previously approved 3 units and that of the 2 dwellings currently proposed.

Mr Pringle could not recall the exact size of the previously approved dwellings but commented that the site coverage is possibly similar as the two dwellings currently proposed are 4 bedroom homes. The Floor Space Ratio (FSR) of the development is 0.37:1 which complies with the maximum FSR of 0.5:1 allowable on the site.

- Cr Campbell

Cr Campbell asked for clarification regarding when the minimum setbacks and lot sizes were last amended.

The DCP was adopted in 2015 and the LEP was adopted 2013. The proposal complies with the applicable standards in relation to lot size and front setback. In this case the minimum setback is based on the average front setback of adjoining development.

- Cr Abbott

Cr Abbott asked if the applicant of the DA was the General Manager of Upper Hunter Shire Council.

Mr Pringle confirmed that the applicant of the DA is Stephen McDonald (General Manager) and advised that the development application assessment should be treated the same as any other with the slight variation to the determination process as prescribed by Council's adopted *Policy for the Assessment of Development Applications for Councillors and Designated Staff*.

The Committee discussed the transparency of the assessment and determination process and questioned whether it would be necessary to seek legal advice.

Cr Abbott then asked about proposed Condition 20, what it meant and why the note was written in red. (Condition 20: Prior to the issue of any Occupation Certificate a work as executed plan drawn on Department of Fair Trading approved template datelining the layout

and location of the stormwater pipe work is to be submitted to Upper Hunter Shire Council. Note: the original copy of works as executed drawing must be submitted to Council.)

Mr Pringle advised this was a standard condition requiring a diagram be submitted showing drainage lines for the dwellings but could not confirm why the note was written in red. The red font colour may simply be a typographical error.

Cr Abbott also reiterated her concern in relation to the density of the proposal but Mr Pringle advised we should be maximising density in urban areas to reduce urban sprawl and subsequent impacts on agricultural land and areas of biodiversity that fringe the township.

- Cr Bedggood

Cr Bedggood thought legal advice may have been obtained in relation to the application but was not certain. Clarification could be sought from the General Manager.

Mr Pringle was not aware of any legal advice being received but confirmed it could be sought if required.

- Cr Fisher

Cr Fisher confirmed he was in favour of infill development such as this proposal and understood the benefits of preventing urban sprawl. He noted that this proposal was not inconsistent with many similar developments within the township.

- Cr Campbell

Cr Campbell asked if legal advice could be attached to the report prior to it being presented to Council at its next ordinary meeting. He later requested this comment be disregarded as the process followed for assessing and determining the application was consistent with Council's policy.

DESC.04.2 DA 12/2020 BOUNDARY ADJUSTMENT/ CONSOLIDATION

Mr Pringle provided a summary of the report. He highlighted that Lot 1 does contain a heritage item (Cassilis Station & Grave Site) but it would remain unaffected by the boundary adjustment. It was also noted that the boundary adjustment would result in Lot 102 being given frontage to the river.

One (1) submission was received from an adjoining landowner on the basis that his land is affected as the river forms a boundary between their properties. The submission raised concerns in relation to physically fencing portions of rural land but this is not a matter requiring consideration throughout the DA assessment process. It is believed that the subdivision will not affect this landowner. Mr Pringle confirmed the plan was prepared by a registered surveyor who had recorded the legal boundaries of the subject land.

Committee questions and comments:

- Cr Campbell

Cr Campbell mentioned he had spoken to the submitter about their concerns. For the Committee's understanding, he further explained the fencing issues.

Mr Pringle acknowledged these concerns but advised that fencing matters should be discussed between property owners and the position of a stock fence between two properties couldn't be considered as part of the development assessment.

Cr Campbell asked for clarification regarding how the boundary line is determined.

M Pringle advised that it appears to be the top of the bank, as indicated on the surveyor's plan. Paul Smith confirmed he had been on site and cadastral mapping shows property boundaries only extending to the edge of the bank, not the centre of the river. There is no consistent rule regarding property boundaries shared with rivers and it can vary from property to property.

Cr Campbell questioned where the new fence should be located when the boundary adjustment occurs.

Mr Pringle confirmed it would be between landowners to discuss the fencing arrangements. It was indicated that it may not always be possible or practical to construct a fence precisely on a boundary line due to physical constraints of the terrain.

- Cr Abbott

Cr Abbott expressed some concern with the proposal given that the adjoining land owner/submitter had concerns about the shared boundary line.

Environmental & Community Services

OPTIONS

1. That Council approve Development Application No. 15/2020 for a dual occupancy and subdivision of 1 lot into 2 lots at 19 Main Street Scone (Lot 3 DP 1177923), subject to the conditions of consent in Attachment 1.
2. That Council refuse Development Application No. 15/2020 for a dual occupancy and subdivision of 1 lot into 2 lots at 19 Main Street Scone (Lot 3 DP 1177923), stating the reasons for refusal.

CONSULTATION

Surrounding properties were notified of the development proposal between 5 February 2020 and 19 February 2020. An advertisement was placed in the Hunter Valley News on 5 February 2020. One (1) submission was raising issues such as compliance with setbacks, floor space ratio, minimum lot size and appropriateness of the development for the area (refer to Attachment 4).

STRATEGIC LINKS

a. Community Strategic Plan 2027

This report links to the Community Strategic Plan 2027 as follows:

Goal 3 Protect the natural environment

Goal 5 A sustainable and prosperous economy

We are working to achieve the following Community Priorities:



Rural lifestyle and Country feel are valued and protected and the Upper Hunter Shire remains quiet, safe, healthy and welcoming.



A stronger economic base to attract and retain residents, particularly our young people.



Protect the natural environment.

b. Delivery Program

Provide efficient and effective advisory, assessment and regulatory services focused on being Customer 'friendly', responsive and environmentally responsible.



Environmental & Community Services

c. Other Plans

NA

IMPLICATIONS

a. Policy and Procedural Implications

The Council *Policy for the Assessment of Development Applications for Councillors and Designated Staff* is applicable. This requires:

1. *All Development Applications lodged by or on behalf of Councillors or Senior Staff (including the General Manager, Directors and staff with delegated authority to approve Development Applications) must be assessed by an Officer that is not the applicant and reported to Council for determination.*
2. *An assessment in accordance with Section 79C (now Section 4.15) of the Environmental Planning and Assessment Act, 1979 will be completed and submitted to the Development & Environmental Services Committee (DESC) and/or a meeting of Upper Hunter Shire Council (UHSC) for consideration.*

Recommendations from the DESC shall be submitted to the next meeting of UHSC for determination of the application.

b. Financial Implications

Development application fees of \$1,602.28 have been paid.

c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (see Attachment 3).

d. Risk Implications

Council determinations of development applications and modifications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied. In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made. There is a low risk of any third party legal appeal in relation to this application.

e. Sustainability Implications

A BASIX Certificate has been issued committing to the installation of water tanks, energy saving devices and the establishment of low water use plant species.

f. Other Implications

Nil



Environmental & Community Services

CONCLUSION

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2015.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent for the following reasons:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013
- The proposal complies with the Upper Hunter Development Control Plan 2015
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979
- Will not have an adverse impact on the surrounding locality

RECOMMENDED that Council approve Development Application No. 15/2020 for a dual occupancy and subdivision of 1 lot into 2 lots at 19 Main Street Scone (Lot 3 DP 1177923), subject to the conditions of consent in Attachment 1.

Moved: K Fisher

Seconded: R Campbell

CARRIED

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Campbell	Councillor Abbott
Councillor Fisher	
Councillor Watts	
Total (3)	Total (1)



Environmental & Community Services

DESC.04.2

***DEVELOPMENT APPLICATION NO. 12/2020 BOUNDARY
ADJUSTMENT/ CONSOLIDATION***

RESPONSIBLE OFFICER: Mathew Pringle - Director Environmental & Community Services

AUTHOR: Paul Smith - Senior Environmental Planner

PURPOSE

Development Application No 12/2020 for a boundary adjustment/consolidation between Lot 1 DP 1158964 and Lot 2 DP 739904, Darkwood Road, Cassilis was lodged with Council on 21 January 2020. It is being referred to Council because one submission was received from an adjoining landowner.

RECOMMENDATION

That Council grant consent to Development Application No 12/2020 for a boundary adjustment/consolidation between Lot 1 DP 1158964 and Lot 2 DP 739904, Darkwood Road Cassilis, subject to the conditions of consent in Attachment 1.

BACKGROUND

Applicant: L Gant
Owners: Busby and Son Pty Ltd, P M Yore and J S Yore
Location: Lot 1 DP 1158964 and Lot 2 DP 739904, Darkwood Road Cassilis
Zone: RU1 Primary Production

Development Application No 12/2020 for a boundary adjustment/consolidation between Lot 1 DP 1158964 and Lot 2 DP 739904 was lodged with Council on 21 January 2020. One submission was received objecting to the development proposal on the basis that some of the land is part of Dalkeith Olde.

REPORT/PROPOSAL

The development site comprises two existing rural lots with areas of 139ha (Lot 1 DP 1158964) and 595ha (Lot 2 DP 739904). The development application proposes a boundary adjustment such that proposed Lot 101 (Lot 1) will have an area of 105.4ha and proposed Lot 102 (Lot 2) will have an area of 579.9ha. In effect the boundary adjustment will result in the portion of Lot 1 that has frontage to the Munmurra River being added to Lot 2. The resultant lots will have frontage to Llangollen Road and Darkwood Road. Part of the site (Lot 1) contains an item of local heritage significance (Cassilis Station and Grave site) which will remain entirely within proposed Lot 101. The plan of proposed boundary adjustment is provided in Attachment 2.

OPTIONS

1. That Council grant consent to Development Application No 12/2020 for a boundary adjustment/consolidation between Lot 1 DP 1158964 and Lot 2 DP 739904, Darkwood Road Cassilis, subject to the conditions of consent in Attachment 1.
2. That Council refuse to grant consent to Development Application No 12/2020 for a boundary adjustment/consolidation between Lot 1 DP 1158964 and Lot 2 DP 739904, Darkwood Road Cassilis, stating the reasons for refusal.

Environmental & Community Services

CONSULTATION

Surrounding properties were notified of the development proposal between 29 January 2020 and 12 February 2020. An advertisement was placed in the Hunter Valley News on 29 January 2020. One submission was received objecting to the boundary adjustment. The reason for the objection is that the objector's property 'Dalkeith Olde' is included in the application by way of the river being the common boundary with no 'give and take' division being allotted equally giving Cassilis Station 5.4ha of Dalkeith Olde land and none in return. The full submission is provided in Attachment 4.

STRATEGIC LINKS

a. Community Strategic Plan 2027

This report links to the Community Strategic Plan 2027 as follows:

Goal 3 Protect the natural environment

We are working to achieve the following Community Priorities:



Protect the natural environment.

b. Delivery Program

Provide efficient and effective advisory, assessment and regulatory services focused on being Customer 'friendly', responsive and environmentally responsible.

c. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

Development application fees of \$383.00 have been paid.

c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (see Attachment 3).

d. Risk Implications



Environmental & Community Services

Council determinations of development applications and modifications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied. In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made. There is a low risk of any third party legal appeal in relation to this application.

e. Sustainability Implications

The proposed boundary adjustment will mean that existing Lot 2 DP 739904 (proposed Lot 102) will have direct frontage to a watercourse (Munmurra River) which will help to ensure the long term viability of the property.

f. Other Implications

Nil

CONCLUSION

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2015.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent. The reasons for the recommendation are:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013
- The proposal complies with the Upper Hunter Development Control Plan 2015
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979
- Will not have an adverse impact on the surrounding locality.

RECOMMENDED that Council grant consent to Development Application No 12/2020 for a boundary adjustment/consolidation between Lot 1 DP 1158964 and Lot 2 DP 739904, Darkwood Road Cassilis, subject to the conditions of consent in Attachment 1.

Moved: K Fisher

Seconded: L Watts

CARRIED

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Campbell	
Councillor Fisher	
Councillor Watts	
Councillor Abbott	
Total (4)	Total (0)

**Report To Development & Environmental Services Committee
14 April 2020**



Environmental & Community Services

MEETING CLOSED AT 10.50AM