

Development Assessment Report - Part 1

Development Application No.	DA0183/24
Date Received	
Proposal	Demolition of existing dwelling and construction of a two storey dwelling
Estimated Cost	\$999,999.00
Legal Description	Lot 1 DP 609363
Property Address	66 The Terrace WINDSOR NSW 2756
Area	956.0000 Square Metres
Zoning	
Applicant	Jake Andrew Colin Davis
Owner	Mr DA Lewis & Mrs FE Lewis
Exhibition Dates	19/08/24 - 02/09/24
Submissions	One submission received
Key Issues	<ul style="list-style-type: none">• One submission• Flooding• Building Height Plane
Recommendation	Approval subject to conditions

Report

Description of Proposal

- Demolition of existing dwelling and construction of a two storey dwelling

The applicant seeks consent to demolish a single storey dwelling and to reconstruct a two storey split level dwelling on the subject property.

The property has an area of 956m² and is generally rectangular in shape. The property has an estimated fall of 1.2m from the east to the west.

The proposed dwelling is a mixture of masonry and light cladding for the ground floor and light weight cladding for the first floor with Colourbond roofing.

The ground floor consists of a double garage, combined kitchen/dining /family room, covered rear alfresco, two bedrooms, bathroom & laundry.

The first floor consists of two bedrooms, ensuite & bathroom, sitting area and front patio.

Site works involve minimal excavation on the eastern elevation.

History

M1546/99 Carport

Council Policies, Procedures and Codes to which the matter relates

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021

Biodiversity Conservation Act 2016





State Environmental Planning Policy (Sustainable Buildings) 2022 (SEPP BASIX)
State Environmental Planning Policy (Coastal Management) 2018
Hawkesbury Local Environmental Plan 2012 (LEP 2012)
Hawkesbury Development Control Plan 2002 (HDCP 2002)
Flood Policy 2020

Matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act)

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

Issue	Comments
Any Environmental Planning Instrument (EPI)	<p>State Environmental Planning Policy (Biodiversity and Conservation) 2021</p> <ul style="list-style-type: none">Chapter 6 – Hawkesbury Nepean River Chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the Hawkesbury Nepean River.Comment: The subject site is partly located within a corridor of Regional significance. The development is similar in nature to surrounding development (residential). It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury – Nepean River either in a local or regional context. <p>State Environmental Planning Policy (Resilience and Hazards) 2021</p> <ul style="list-style-type: none">Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 requires Council to consider the potential for a site to be contaminated.Comment: The subject site is currently used for residential purposes. Council property history review did not give any cause to suspect the land may require remediation. It is considered that the ongoing use of the subject site for residential purposes is suitable with regard to the aims of the SEPP. <p>Biodiversity Conservation Act 2016</p> <ul style="list-style-type: none">All development applications are required to be assessed against the Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017.Comment: The subject site has not been identified as containing Biodiversity communities. <p>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</p> <ul style="list-style-type: none">A BASIX certificate has been submitted as part of the application for the new dwelling. A condition has been recommended to ensure compliance with the requirements of the certificate.



Issue	Comments
	<p>Hawkesbury Local Environmental Plan 2012</p> <ul style="list-style-type: none"> • The development is consistent with the zone objectives and the following clauses of this plan: • The subject site is zoned E2 Commercial Centre under Hawkesbury Local Environmental Plan 2012. Demolition and construction of a dwelling is permissible within the zone. Relevant LEP provisions include: • Clause 4.3 - Height of Buildings – The new works are below 10 metres. • Clause 5.10 Heritage Conservation – The subject site is not affected by heritage conservation controls. The subject land is not identified as a local heritage item under Hawkesbury Local Environmental Plan 2012. • Clause 5.21 – Flood Planning – The subject site is affected by flood related development controls. • Clause 6.1 - Acid Sulfate soil controls – The subject site is contains Class 5 acid sulfate soils – Low impact – The proposal is not likely to lower the water table or expose acid sulfate soils. • Clause 6.2 – Earthworks - Any proposed earthworks are ancillary to the proposed development for site preparation only. It is not considered that these minor works will have a detrimental effect on drainage or amenity of neighbouring properties. A condition of consent is recommended to ensure that existing stormwater flow is not altered to impact adjoining properties. • Clause 6.4 - Terrestrial Biodiversity - The subject site is not identified as consisting of endangered ecological communities. The proposed development does not involve the removal of native vegetation. • Clause 6.5 Wetlands - The subject site is not located within an area identified as Wetlands. • Clause 6.6 – Aircraft Noise – The subject site is not impacted by aircraft noise. • Clause 6.7 – Essential Services – The services for water, electricity, sewerage, road access and storm water drainage are considered suitable for the proposed development
Any draft EPI that has been placed on public exhibition	<ul style="list-style-type: none"> • There are no draft environmental Planning Instruments relevant to this development
Any DCP in force	<ul style="list-style-type: none"> • Hawkesbury Development Control Plan 2002 The proposal is generally consistent with the aims and objectives of the DCP. An assessment of the proposal against the relevant provisions of this plan follows: • Part A: Chapter 1 – General Information The subject application provides adequate information for the assessment of the proposal and therefore complies with this Chapter. • Part A Chapter 3 – Notification The proposal was notification under the HDCP 2002. The proposal is consistent



Issue	Comments
	<p>with the Residential Chapter of the HDCP 2002 detailed as follows:</p> <ul style="list-style-type: none">• Part C: Chapter 2 – Car Parking and Access .The HDCP 2002 requires a minimum of two undercover car parking spaces. The proposed dwelling includes an attached triple car garage and therefore is capable of complying with the requirements of this control.• Part C Chapter 4 – Soil Erosion and Sediment Control Council’s standard conditions of consent are recommended to ensure that erosion and sediment control is addressed during and after construction.• Part C: Chapter 8 – Management of Construction and Demolition Waste The application is supported by a waste management plan for the construction of the development. In this regard the proposal is consistent with Chapter 8 of the HDCP 2002.• Part D: Chapter 1 - Residential Development The proposal is consistent with the aims and objectives of the residential chapter of the HDCP 2002. An assessment against the provisions of this chapter is outlined below.• 1.3 Height The proposed dwelling has an overall height of 8.509m to the ridge. The development encroaches into the Building Height Plan, Refer to General Discussion• 1.4 Setbacks The required front setback for the subject site is 7.5m.The proposed development is setback 9.576m from the front boundary and is compliant with the DCP requirements• 1.6 Landscaped Areas Dwelling houses are required to have a minimum landscape area of 30% under this clause; this does not include hardstand surfaces such as driveways. The proposed landscaping exceeds the 30% requirement and is therefore compliant.• 1.7 Private Open Space Dwelling houses are required to have a minimum private open space of 20% of the site area. The proposed dwelling meets the requirements of this control.• 1.9 Vehicle Access and Car Parking The proposed driveway satisfies the requirements of the controls.• 1.11 Visual Privacy. The HDCP 2002 requires that the visual privacy of neighbouring properties be considered and any adverse impacts minimised. The proposed dwelling is of two storey construction, and placement of windows have been considered with the design of the dwelling. Security screens have been provided ground floor bedroom window and stairwell on the eastern elevation to address privacy issues. It is considered the proposal will not have an adverse impact on the privacy of the site or adjoining neighbours.



Issue	Comments
	<ul style="list-style-type: none">1.14 Safety and Security It is considered that the proposal complies with Council's provisions regarding safety and security for residential development.1.15 Utility and Site Services. The subject site is connected to a reticulated water supply.
Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4	<ul style="list-style-type: none">There are no planning agreements for the development.
Any matters prescribed by the Regulations	<ul style="list-style-type: none">In accordance with the Environmental Planning and Assessment (EP&A) Regulation 2021, the development is required to comply with the following:The National Construction Code – Building Code of Australia (BCA)The following development contributions apply to this development - \$9,999.90. Accordingly, a condition of consent is required to be imposed in this regardFire safety upgrade – Not required for class1 & 10 structuresBASIX sustainability commitments –A BASIX certificate has been submitted confirming compliance with the BASIX SEPP.
Likely impacts, including environmental, on both natural and built environments and the social and economic impacts of the locality	<ul style="list-style-type: none">It is considered that the proposed development is consistent with the surrounding properties which are primarily developed for rural residential use.
The suitability of the site	There are no constraints from surrounding land uses that would make this development unsuitable and it is considered that the development would not impact upon critical habitats and threatened species, populations, ecological communities and habitats. The land is identified as being flood prone and would need to comply with Councils Flood Liable Land Policy. The land is located within an area serviced by Sydney Water for the supply of water and sewer.
Any submissions	<ul style="list-style-type: none">One submission was received
The public interest	<ul style="list-style-type: none">It is considered that the proposal is consistent with the overall objectives of the zone and is unlikely to result in any negative impacts on the locality. It is therefore considered that the proposal is not contrary to the public interest.

General Discussion

Submission

A submission was received from the adjoining property owner (no 68) concerned generally about the siting and shadowing and privacy.



The original development is setback from the adjoining dwelling on the eastern boundary and is 1.5m off the eastern boundary.

The new proposal will see a larger dwelling which will be set forward of the adjoining dwelling on the eastern allotment and will have an off set of 1.00 m from the boundary.

The complainant suggested that there will be issues with privacy, shadowing and that there is scope to reposition the new dwelling to the west and further back to observe the existing building setback and 1.5m from the eastern boundary.

Comment.

The proposed development is setback 9.576m from the front boundary at the closest point and 11.970m to the rear boundary. Repositioning the development further back will increase the height of the development due to flood levels and the general topography of the site. The area forward to the adjoining dwelling consists mainly of the garage. Ground floor windows service wet rooms and two bedrooms. The first floor windows service a bedroom and stairwell (These windows will be fitted with privacy screens). Wet rooms will be frosted glass.

Shadow diagrams were provided indicating that the extent of shadowing to adjoining properties fell to acceptable limits.

Moving the development further back would result in loss of rear yard area and an increase in height due to the topographical conditions.

Building Height Plane

The proposed development exceeds the Building Height Plane on the east and western elevation. The aims of the Building Height Plane are

(a) To protect the privacy, use of private open space and solar access within the development and on adjoining land.

(b) To ensure that the bulk of the new development is not excessive and relates well to the local context.

(c) To allow adequate natural light and ventilation between dwellings with sufficient separation for acoustic and visual privacy.

Exemptions to the Building Height Plane may be granted in the following circumstances:

- single dwellings proposed on flood prone land;*
- single dwellings proposed on lots with a frontage of less than 14m at the building line; and*
- chimneys, satellite dishes and aerials.*

Comment

The proposed development is setback 1.0m from the eastern boundary. This is mainly the garage & laundry. The dwelling steps back another 1.2m and this area consists of bedrooms & stairwell. The setback from the eastern boundary would be 2.2m.

The length of the dwelling is 22.7m and exceeds the eastern boundary length by 50% and a frontage greater than 14m, however as the development is located on flood prone land, Council may grant an exemption.

It is considered that the issues of privacy and shadowing have been addressed in the overall design of the development.

It is considered that repositioning the dwelling further back and to the western boundary will not address issues of height plane compliance. It is considered that the applicant has demonstrated that the objectives of the Height Plane have been addressed and that the application be supported on its merits.

Conclusion



The application has been assessed having regard to the matters for consideration in Section 4.15 of the Environmental Planning and Assessment Act (EP&A). The application is considered to represent a satisfactory form of development and is recommended for approval.

Development Contributions

Section 7.12 Fixed development consent levies (Hawkesbury Section 94A Contributions Plan 2015)

The following development contributions apply to this development - \$9,999.90. Accordingly, a condition of consent is required to be imposed in this regard.

Recommendation

1. Refer to Assessment Report – Part 2 for the recommendation details.
2. The objector be advised in writing of councils decision

Attachments

There are no supporting documents for this report.

Assessment Officer

Michael Russo | Building & Development Officer | Hawkesbury City Council

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Please refer to Part 2 of this Report for the Recommendation, Delegate's Determination and Peer Review Template