PUBLIC VOICE COMMITTEE MEETING
09 April 2019

ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

REPORTS BY COUNCIL OFFICERS
Attachment A - Plans DA2018/00707 – 17 Brien Street The Junction
Demolition of dwelling and outbuilding erection of two storey dwelling and associated swimming pool

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BASIX COMMITMENTS

Lighting
The applicant must ensure that the 'primary type of artificial lighting' is fluorescent or LED lighting in rooms listed in the BASIX Certificate.

Plumbing Fixtures
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

Insulation
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the BASIX Certificate.

Alternative Water
The applicant must install a rainwater tank of at least 4000 litres on the site.
The applicant must configure the rainwater tank to collect rain runoff from at least 40 square metres of the roof area.
The applicant must connect the rainwater tank to:
- all toilets in the development
- all outdoor taps in the development
- the cold water tap that supplies each clothes washer

Windows and Glazed Doors
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the BASIX Certificate.

Swimming Pool
The swimming pool must not have a volume greater than 10 kilolitres.
The swimming pool must have a pool cover.
The applicant must install a timer for the swimming pool pump.

Hot Water System
The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 6 stars.

Cooling System
The applicant must install the following cooling system in at least 1 living area: ceiling fans + 1 phase air conditioning; Energy rating: EER 3.0-3.5
The applicant must install the following cooling system in at least 1 bedroom: ceiling fans + 1 phase air conditioning; Energy rating: EER 3.0-3.5

Heating System
The applicant must install the following heating system in at least 1 living area: 1 phase air conditioning; Energy rating: EER 3.0-3.5
The applicant must install the following heating system in at least 1 bedroom: 1 phase air conditioning; Energy rating: EER < 2.5
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Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work.

Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings.

The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed.

The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For use during construction" and authorised for issue.
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Roof Plan

SCALE 1:100 @ A3

Certificate no.: 0003442870
Assessor Name: Andrew Lorriman
Accreditation no.: VIC/BDAV/17/1827
Certificate date: 10 December 2018
Dwelling Address: 17 Brien Street, THE JUNCTION, NSW 2291

www.nathers.gov.au
North East Elevation
SCALE 1:100 @ A3

South East Elevation
SCALE 1:100 @ A3

South West Elevation
SCALE 1:100 @ A3

Notes:
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A FOR REVIEW 24/02/15

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Accreditation no.:
Certificate date:
www.nathers.gov.au
Dwelling Address:
0003442870
Andrew Lorriman
VIC/BDAV/17/1827
5.1
10 December 2018
17 Brien Street
THE JUNCTION, NSW
2291
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4000L Underground water tank as per NCC DCP & BASIX Requirements. All downpipes to be directed to tank with overflows directed to street drainage in the kerb as shown. Downpipe location/Configuration as per Architects details.

Connect to kerb invert at street (RL5.633) with RHS Gal 150x50 @ minimum 0.5% grade from boundary pit

450 x 450 grated inlet SW Pit

Overflows conveyed to boundary pit via 100mm PVC Piping

450 x 450 grated inlet SW Pit
PUBLIC VOICE COMMITTEE MEETING
9 April 2019

ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

REPORTS BY COUNCIL OFFICERS
Attachment A - Plans & Planning Report
DA2018/1188 - 37 Boreas Road Hamilton North
Change of use of shop to dwelling

DISTRIBUTED UNDER SEPARATE COVER
SITE PLAN / FLOOR PLAN

SITE AREA - 366.4 sqm
LANDSCAPE AREA - 55.1 sqm - (15.03%)

AMEND 10.09.18

ADDRESS
LOT B, DP 43274, 37 BOREAS RD
HAMPTON NORTH

CHANGE OF USE
Drawing

SITE PLAN
FLOOR PLAN

all dimensions to be clarified on site

Scale 1:200, 1:100
Date AUG’18
Drawing no. 10F1
Copyright © 2018
Project 1819
Our ref: 17073

11th October 2018

Newcastle Council
PO Box 489
Newcastle NSW 2300

ATTENTION: DEVELOPMENT ASSESSMENT OFFICER

DEVELOPMENT APPLICATION REPORT
USE OF BUILDING AS DWELLING HOUSE
37 BOREAS ROAD HAMILTON NORTH

On behalf of the applicant, Jodie Morris, I hereby provide this Development Application Report in support of the use of an existing building, located at 37 Boreas Road Hamilton North, as a Dwelling House.

This application is made in accordance with Clause 5.3 of the Newcastle Local Environmental Plan, outlined below.

Subject Site

The subject site is described as Lot B DP432274 and is located at 37 Boreas Road Hamilton North, refer to Figure 1.

Figure 1 Subject Site
The site contains existing structure that has the appearance of a dwelling house, and ancillary shed at the rear.

**Figure 2 Subject Site as Viewed from Boreas Road**

Development within the sites immediate context consists predominately of residential dwellings, refer to **Figure 3 to 5**.
Figure 3 Existing Development to the East

Figure 4 Existing Development to the North
Figure 5 Existing Development to the West (as viewed from Broadmeadow Road)
The Proposal

The proposal seeks to utilise an existing building as a Dwelling House.

The subject building was approved as a shop under DA1996/0137 - Conversion of Residence to Shop and Erection of New Shed.

This use was ceased in June 2015 and given it relied on existing use rights it is considered to be abandoned.

The proposal therefore seeks to utilise the building as a Dwelling House, noting that this was the formerly approved use within the subject site.

The use requires no significant works, with the internal layout of the building not needing to be changed to accommodate the proposal.
Response to Planning Instruments

An assessment of the proposal has been undertaken in accordance with Section 4.15 of the Environmental Planning and Assessment Act (1979).

Environmental Planning Instruments

State EPI's
State Environmental Planning Policy BASIX

A BASIX Certificate supports this application.

Local EPI's
Newcastle Local Environmental Plan 2012

Land Use Table

The site is zoned IN2 Light Industrial. The use is not permissible within this zone, with a detailed response therefore provided under Clause 5.3.

5.3 Development near zone boundaries

In accordance with Figure 6 the subject site adjoins the zoning boundary for R2 Low Density Residential.

Figure 6 Site Zoning

Clause 5.3 is responded to hereunder.
(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

The subject site is adjoined by residential dwellings in all directions, except to the south of the site.

It would appear to be logical for a (partial) residential use of the land to be permitted, given its consistency with those adjoining uses, both with the residential land to the north and existing residential uses also located in the IN2 Zone.

Further, a residential use of the site is entirely consistent with the objectives of the R2 Zone:

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

The dwelling will provide a form of low density housing consistent with the dwellings immediately adjoining the site.

To enable other land uses that provide facilities or services to meet the day to day needs of residents

The intended use will have no impact on any future use of the site that provides for the day to day needs of residents.

To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.

The form of the building will not be altered by this application, with the existing building considered to be entirely consistent with existing dwellings adjoining the site within the IN2 and R2 Zones.

(2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.

The entire building to be used as a dwelling house is within 20m of the zone boundary.

(3) This clause does not apply to:

(a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or

(ab) Zone E4 Environmental Living, or

(b) land within the coastal zone, or

(c) land proposed to be developed for the purpose of sex services or restricted premises.

The site is not included in any of these zones, and does not seek a use as sex services or restricted premises.

(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

(a) the development is not inconsistent with the objectives for development in both zones, and

The proposed use is entirely consistent with the objectives of the R2 Zone.
The IN2 Zone objectives are responded to as follows:

*To provide a wide range of light industrial, warehouse and related land uses.*

Given the existing residential land uses within the sites immediate context, and the size of the allotment, it is considered unlikely that the site could be reasonably or feasibly used for light industry or warehouse development.

Further, analysis of the permissible land uses in the IN2 Zone indicates that the site has limited future development potential.

<table>
<thead>
<tr>
<th>Use</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aquaculture</td>
<td>The site is considered to be of insufficient area to facilitate an Aquaculture development</td>
</tr>
<tr>
<td>Boat building and repair</td>
<td>The site area would likely be restrictive to this use, given the likely turning areas required to manoeuvre boats for repair</td>
</tr>
<tr>
<td>Boat launching ramps</td>
<td>N/A</td>
</tr>
<tr>
<td>Car parks</td>
<td>The site location, and area, would preclude feasible redevelopment for the purpose of a car park. Such a use would also likely have significant impact on the amenity of adjoining dwellings</td>
</tr>
<tr>
<td>Centre-based child care</td>
<td>The site area would again be a limiting factor to the feasible use for a Child Care Centre, particularly when considering parking requirements for such a use.</td>
</tr>
<tr>
<td>facilities</td>
<td></td>
</tr>
<tr>
<td>Community facilities</td>
<td>The site, and existing buildings, would have some potential for use as a community facility.</td>
</tr>
</tbody>
</table>
| Crematoria                   | Whilst technically the site could support a Cremator, it is likely that the relative small area would limit the ability to provide reasonable buffers to existing residential dwellings, making such a development difficult. |%
<p>| Depots                       | It is unlikely that the site could be used as a depot, due to the sites limited area (constraining the extent of machinery able to be stored onsite) and limited frontage (restricting the ability for heavy vehicles to safely enter and leave the site). |
| Flood mitigation works       | N/A                                                                                                                                     |
| Freight transport facilities | Refer to comment for Depot                                                                                                               |
| Garden centres               | Whilst technically the site could be used as a garden centre, it is again constrained in respect of site area and adjoining land uses to providing a feasible Garden Centre, giving due consideration for parking requirements and possible amenity impacts (noise and odours associated with such a use). |
| General industries           | See above comment for light industries                                                                                                   |
| Hardware and building        | Similar constraints apply to this use as a Garden Centre                                                                               |
| supplies                     |                                                                                                                                        |
| Helipads                     | Given site context this is clearly an unlikely use.                                                                                     |</p>
<table>
<thead>
<tr>
<th>Use</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heliports</td>
<td>As per Helipad</td>
</tr>
<tr>
<td>Industrial retail outlets</td>
<td>N/A, use needs to be ancillary to an existing industry</td>
</tr>
<tr>
<td>Industrial training facilities</td>
<td>See above comment for light industries</td>
</tr>
<tr>
<td>Jetties</td>
<td>N/A</td>
</tr>
<tr>
<td>Kiosks</td>
<td>A possible use, could be ancillary to a dwelling.</td>
</tr>
<tr>
<td>Landscaping material supplies</td>
<td>Similar constraints apply to this use as a Garden Centre</td>
</tr>
<tr>
<td>Mortuaries</td>
<td>Refer to comment for Crematoria</td>
</tr>
<tr>
<td>Neighbourhood shops</td>
<td>A possible use that may be ancillary to a dwelling</td>
</tr>
<tr>
<td>Passenger transport facilities</td>
<td>Site is of insufficient area to allow for any bus movements</td>
</tr>
<tr>
<td>Places of public worship</td>
<td>The site is of insufficient size to provide the parking requirements for such a use</td>
</tr>
<tr>
<td>Plant nurseries</td>
<td>Similar constraints apply to this use as a Garden Centre</td>
</tr>
<tr>
<td>Recreation areas</td>
<td>The site area, and the proximity to other recreational area, would preclude this form of development</td>
</tr>
<tr>
<td>Recreation facilities (indoor)</td>
<td>The parking requirements for this use would preclude redevelopment for this purpose</td>
</tr>
<tr>
<td>Recreation facilities (major)</td>
<td>As per above comment for recreational facilities</td>
</tr>
<tr>
<td>Respite day care centres</td>
<td>Refer to comments provide for Child Care Centres</td>
</tr>
<tr>
<td>Restricted premises</td>
<td>The site is located within 20m of dwellings in a residential zone, and therefore does not comply with the DCP requirement of a 150m buffer zone</td>
</tr>
<tr>
<td>Roads</td>
<td>N/A</td>
</tr>
<tr>
<td>Service stations</td>
<td>The site is provided with insufficient frontage and area to allow for a service station</td>
</tr>
<tr>
<td>Sex services premises</td>
<td>See comment in respect of restricted premises</td>
</tr>
<tr>
<td>Signage</td>
<td>Applicable only for possible future uses</td>
</tr>
<tr>
<td>Storage premises</td>
<td>The site area would impact on the ability to provide a feasible storage premises</td>
</tr>
<tr>
<td>Take away food and drink premises</td>
<td>Potential use of the site, could be provided in combination with a dwelling</td>
</tr>
<tr>
<td>Timber yards</td>
<td>The site is of insufficient area to provide for a timber yard and associated buffer areas to sensitive receivers adjoining</td>
</tr>
<tr>
<td>Transport depots</td>
<td>Refer to comments provided for a depot</td>
</tr>
<tr>
<td>Truck depots</td>
<td>Refer to comments provided for a depot</td>
</tr>
<tr>
<td>Vehicle body repair workshops</td>
<td>The site could possibly support a small vehicle body repair workshop, however adjoining sensitive receivers may impose significant constraint to a feasible development.</td>
</tr>
<tr>
<td>Vehicle repair stations</td>
<td>Refer to above comment</td>
</tr>
<tr>
<td>Vehicle sales or hire premises</td>
<td>The site is considered to be too small in area, and isolated from an Arterial Road (and associated passing traffic) to provide for a feasible Vehicle sales premises.</td>
</tr>
<tr>
<td>Warehouse or distribution centres</td>
<td>The site is of insufficient area to provide for heavy vehicle movements, likely to preclude use as a warehouse.</td>
</tr>
<tr>
<td>Wholesale supplies</td>
<td>Site area considered to be insufficient to provide for the display of goods and sufficient parking for this type of use.</td>
</tr>
</tbody>
</table>

Accordingly the proposed residential use is not inconsistent with this objective, where the existing site conditions preclude use of the site for the great majority of permissible uses, whilst a residential use would still facilitate ancillary land uses (i.e take away food and drink premise).

To encourage employment opportunities and to support the viability of centres.

The sites constraints, detailed elsewhere, preclude a large number of permissible employment generating activities.

A residential use of the site would not impact on development within the immediate context from continuing to be used for employment generating activities, and is therefore not deemed to be inconsistent with this objective.

The proposal will have no impact on the viability of centres elsewhere in the LGA.

To minimise any adverse effect of industry on other land uses.

The proposed residential use is consistent with this objective, where a buffer to industrial land uses is provided from the shed at the rear of the allotment.

The use of the structure as a dwelling is not deemed to impact on continued industrial land uses in the context.

To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

A residential use could be provided, in combination with a use that will provide for the day to day needs of workers.

The use is therefore not inconsistent with this objective.

To support and protect industrial land for industrial uses.

As per the above comments, the site conditions (and adjoining land uses) result in the parcel not being suitable for industrial uses.

The dwelling house would have no significant impact on industrial uses in adjoining lots, and the Broadmeadow/Hamilton North Light Industrial precinct more generally. It is therefore not inconsistent with this objective.

(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

The proposal has been considered in relation to other permissible uses of the site, and existing development within the context.

It has been determined that there is very limited potential to utilise the site in accordance with the permissible land uses of the IN2 Zone. A land use consistent with the objectives and provisions of the R2 Zone is considered to be the most appropriate use of the site, facilitating the use of a structure that has the form and function of a dwelling house.
(5) This clause does not prescribe a development standard that may be varied under this Plan.
Noted.

The proposal addresses Clause 5.3 of the LEP, and Council is able to approve the proposed use as a Dwelling House.

**Development Control Plans**

**Newcastle Development Control Plan**

<table>
<thead>
<tr>
<th>Table 1 Response to Relevant Sections of Newcastle DCP</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section</strong></td>
</tr>
<tr>
<td>3.02.01 Density Floor Space Ratio</td>
</tr>
<tr>
<td>3.02.02 Height of Buildings</td>
</tr>
<tr>
<td>3.02.03 Street Frontage Appearance</td>
</tr>
<tr>
<td>3.02.04 Side/rear setbacks</td>
</tr>
<tr>
<td>3.02.05 Landscaped Area</td>
</tr>
<tr>
<td>3.02.06 Private Open Space</td>
</tr>
<tr>
<td>3.02.07 Privacy</td>
</tr>
<tr>
<td>3.02.08 Solar access</td>
</tr>
<tr>
<td>3.02.09 View sharing</td>
</tr>
<tr>
<td>3.02.10 Car parking and vehicle access</td>
</tr>
<tr>
<td>5.01 Soil Management</td>
</tr>
<tr>
<td>7.03 Traffic, Parking and Access</td>
</tr>
<tr>
<td>7.05 Energy Efficiency</td>
</tr>
<tr>
<td>------------------------</td>
</tr>
<tr>
<td>7.06 Stormwater</td>
</tr>
<tr>
<td>7.07 Water efficiency</td>
</tr>
<tr>
<td>7.08 Waste Management</td>
</tr>
</tbody>
</table>

**Likely Impact of the Development**
The response to the relevant planning instruments, demonstrate how the proposal has properly considered and responded to any likely impact of the development on the site and its context.

**Suitability of the Site for the Development**
The suitability of the site for the development has been demonstrated by the response to the requirements of the relevant planning instruments and guidelines.

**Submissions made in respect of Application**
The application may be notified to adjoining property owners.

Given the proposal is entirely consistent with existing uses within adjoining lots in the IN2 Zone, and the residential land uses in the immediate R2 Zone, no significant objection is anticipated.

Response to any submissions received will be provided at the assessing officers discretion.

**The Public Interest**
The development is deemed to be in the public interest by providing an opportunity to utilise an existing structure in a manner consistent with the site context. Alternative uses of the site are extremely limited, and thus the use is considered to be the most efficient use of the site.

**Conclusion**
This report demonstrates how the residential use of the site responds to all relevant planning instruments, and specifically Clause 5.3 of the LEP.

Council support for the application is therefore anticipated.
Should you have any enquiries in respect of this application please do not hesitate to contact the writer on 0401 348 204 or email paul@resolveurbanplanning.com.au.

Yours faithfully,

Paul McLean
Resolve Urban Planning
B. Nat Res (Hons.) & B. Urb & Reg Planning (UNE)