



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 274 – FRIDAY 11 NOVEMBER 2022

**AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH**

MEMBERS PRESENT: Suzanne Philip (Chair), Adam Twomey, Emma Sharp and Rachael Wright

APOLOGIES: Keith Aitken

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), George Maly and Josh Larder
(Development Assessment Services)

COUNCIL REPRESENTATIVE: Julie Hillier

Meeting opened at 11.15 am and closed at 1.00 pm

MINUTES RECORD THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1

PA2022/0346

EXCAVATION AND FILL (FILL)

SECTION 7085 (160) COMPIGNE ROAD, GIRRAWEEEN, HUNDRED OF BAGOT

APPLICANT

Tatam Planning Co - Cat Tatam

Emma Sharp and Rachael Wright are community members of the Development Consent Authority and councillors respectively, for Litchfield Council. Litchfield Council is a submitter to this application under Section 49 of the *Planning Act 1999*.

The Chair noted that section 98A of the *Planning Act 1999*- Independence of Community Members - contemplates that Community Members, while acting independently, may take account of opinion of a local government council in relation to a development application. No parties present raised any concerns with Ms Sharp or Ms Wright considering the application. Pursuant to section 97 of the *Planning Act 1999*, the Chair determined that Ms Sharp and Ms Wright interest or relationship was not significant or relevant, and both were permitted to form part of the quorum and participate in determination of this item.

Applicant: Cat Tatam (Tatam Planning Co) attended.

Submitter: Litchfield Council represented by Julie Hillier attended.

RESOLVED
108/22

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 7085 (160) Compigne Road, Girraween, Hundred of Bagot for the purpose of Excavation and Fill, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works, a **Type 2** Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP should be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: das.ntg@nt.gov.au .
2. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into Litchfield Council's stormwater drainage system shall be submitted to and approved by Litchfield Council.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
5. All works relating to this permit must be undertaken in accordance with the accepted **Type 2** Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority.
6. Should the accepted **Type 2** Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CEPSC) to the satisfaction of the consent authority. The revised ESCP should be submitted for acceptance to Development Assessment Services via email: das.ntg@nt.gov.au.
7. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. For further information refer to **Note 2** below.
8. At completion of works, written clearance must be provided by a CPESC regarding satisfactory implementation of temporary and permanent erosion and sediment control measures and site stabilisation, and provided to the satisfaction of the consent authority.

NOTES

1. Department of Environment, Parks and Water Security Erosion and Sediment Control Plan (ESCP) procedures as updated are available at <http://depws.nt.gov.au/rangelands/technical-notes-and-fact-sheets/land-management-technical-notes-and-fact-sheets>
2. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Development Coordination Branch: (08) 8999 4446.
3. Council's current Fees and Charges may apply to the above comments. Additional information can be found at www.litchfield.nt.gov.au.

4. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://nTEPA.ntg.gov.au/waste-pollution/guidelines/guidelines>.

The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by DEPWS.

The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

5. There are statutory obligations under the *Weeds Management Act 2001* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment, Parks and Water Security.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and excavation and fill (fill) requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(1)(c)(i), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and the Litchfield Subregional Land Use Plan 2016, which are relevant to this application), zone purpose and outcomes of Clause 4.7 (Zone RL – Rural Living), and Clause 5.8.9 (Excavation and Fill) need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme.

2. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

With its close proximity to the Howard River Floodplain System, the proposed filling will provide an approximately one (1) hectare of land that will be immune to a Q100 flood event (the modelled extent of which was included in the application) and therefore suitable for residential development.

The subject land has an area of 10.43 hectares, which appears to be sufficiently sized to accommodate a one hectare of fill, raised up to 700mm above the existing ground level, without significantly displacing floodwaters to surrounding land. Furthermore, if the filling and stabilisation works are undertaken in accordance with the Sediment and Erosion Control Plan lodged with the application, the fill is unlikely to adversely affect the physical characteristics of the site or the surrounding land.

3. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated. The proposed fill is located away from boundaries and once a suitable vegetation and other forms of stabilisation are implemented, the raised pad will not be seen or have an adverse impact on the existing and future amenity of the area. The locality contains other forms of rural residential development and the proposal to create a large building pad will facilitate future residential development with a reasonable level of flood immunity. The proposed development is consistent with the zone purpose and outcomes and does not conflict with the intent of the strategic framework covering the area.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Determination

ITEM 2

PA2022/0348

CLEARING OF NATIVE VEGETATION

SECTION 1513 (125) GOLDING ROAD, ACACIA HILLS, HUNDRED OF COLTON

APPLICANT

H4AAL-2 Pty Ltd

Graeme Owen (Principal Consultant VPS Land Assessment and Planning) attended the meeting on behalf of the applicant.

Mr Owen tabled a map showing contour lines and shows the directional flow of the site within the clearing footprint.

**RESOLVED
109/22**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 1513 (125) Golding Road, Acacia Hills, Hundred of Colton for the purpose of clearing of native vegetation, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into Litchfield Council's stormwater drainage system shall be submitted to and approved by Litchfield Council.
2. Prior to the endorsement of plans and prior to the commencement of works, amended plans showing the footprint of the clearing to meet the recommended minimum buffer width of 25m must be submitted to and approved by the Vegetation Assessment Unit (Department of Environment, Parks and Water Security), to the satisfaction of the consent authority.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. The clearing of native vegetation is to be undertaken only in the areas identified on the endorsed drawing as "Permitted Clearing". All remaining native vegetation is to be maintained to the satisfaction of the consent authority.
5. The permit holder must ensure that the clearing operator has a copy of the permit, including the endorsed drawing, at all times during the clearing operation.
6. Before the vegetation removal starts, the boundaries of all vegetation stands to be removed and retained must be clearly marked on the ground or marked with tape or temporary fencing to the satisfaction of the consent authority.
7. Before the use commences, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority on advice from the Bushfires NT (Department of Environment, Parks and Water Security).
8. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Litchfield Council, to the satisfaction of the consent authority.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Litchfield Council, to the satisfaction of the consent authority.
10. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management

Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.

NOTES

1. For the purposes of best practice land management and environmental protection it is recommended that a **Type 1** Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
2. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security Erosion and Sediment Control Plan (ESCP) procedures available at <https://depws.nt.gov.au/rangelands/technical-notes-and-fact-sheets/land-management-technical-notes-andfact-sheets>.
3. A permit to burn is required from the Regional Fire Control Officer, Department of Environment, Parks and Water Security, prior to the ignition of any felled vegetation on the property. Fire prevention measures are to be implemented in accordance with the requirements of the *Bushfires Management Act 2016*.
4. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by DEPWS.

The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

5. There are statutory obligations under the *Weeds Management Act 2001* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment, Parks and Water Security.
6. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au.
7. A *Works Permit* is required from Litchfield Council before the commencement of any work within the road reserve, which would include the creation of any driveway crossover connecting to Litchfield Council's road network.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and Clearing of native vegetation requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(1)(c)(i), therefore the strategic framework (Part 2 of the Scheme, including the Litchfield Subregional Land Use Plan 2016, which are relevant to this application), purpose and requirements of Clause 3.2 (CNV – Clearing of Native Vegetation), zone purpose and outcomes of Clause 4.21 (Zone R – Rural), and Clause 5.7.1 (Rural Development – Agriculture, Horticulture and Intensive Animal Husbandry) need to be considered.

The strategic framework and relevant clauses of the NT Planning Scheme 2020 have been considered and it is found that the proposal is consistent with and complies with the relevant requirements of the Scheme and the Litchfield Subregional Land Use Plan 2016.

2. Pursuant to section 51(1)(9e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The application was placed on public exhibition from 16 September 2022 to 30 September 2022. One public submission was received under section 49(1) of the *Planning Act 1999*.

The submission raised concerns regarding the impacts of the clearing of native vegetation of the native flora and fauna. The submitter has concerns that the clearing may encourage introduced trees, grasses, toads and cats.

In response, the Department of Environment, Parks and Water Security (DEPWS) advises that despite there being a high likelihood of threatened species being present within the development footprint, the proposed

development is a relatively small size with larger area of habitat persisting in the region. This is based on a search of DEPWS databases within 10km of the application area, expert knowledge of species' habitat requirements and information about habitats occurring within the site.

The presence of existing mango orchards on adjoining blocks means that the clearing poses a low risk of reducing connectivity for wildlife throughout the landscape. DEPWS concludes that the overall impact to biodiversity posed by the clearing of native vegetation and the proposed mango orchard, is considered to be low.

The submitter also states that there is no local demand for more mangos and there is a shortage of pickers to satisfy the demand. The submitter criticises the quality of the application and the lack of research undertaken in the preparation of the application.

In response, correspondence from the Heritage Branch was included in the Statement of Effect and indicates the likelihood of the disturbance to heritage places or archaeological sites is considered low. Furthermore, correspondence from the Aboriginal Areas Protection Authority (AAPA) have indicated that there are no known sacred sites within the proposed clearing area. The application has provided a response to the relevant section of the *Planning Act 1999* and the relevant clauses of the *Northern Territory Planning Scheme 2020*.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

With a site area of 97.4 hectares, the subject land is capable of accommodating the proposed clearing of native vegetation. A 25m wide retained native vegetation buffer has been applied to the riparian area of a first order stream that flows throughout the subject land. The proposed clearing area is generally characterised by relatively uniform slope of approximately 1% slope and the soil landscape is suitable of supporting the intended use for agriculture. Areas with slope steeper than 2% have been excluded.

No essential habitats and no impacts on regional biodiversity have been identified within the proposed clearing area. No billabongs or swamps on the subject land were identified. The likelihood of the land providing important habitat for any threatened flora or fauna species is considered to be very low.

Additionally, the Department of Environment, Parks and Water Security-Environment Division did not identify or raise any issues of concern relating to land capability.

4. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

There is unlikely to be any adverse impact on the existing and future amenity of the area as a result of the proposed clearing. The proposal complies with the purpose and outcomes of the zone. Agricultural production is a common land use in the locality so the proposed clearing of native vegetation is considered appropriate to facilitate an irrigated mango orchard.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

ITEM 3

PA2022/0333

**ANIMAL BOARDING AND INTENSIVE ANIMAL HUSBANDRY (DOG BREEDING)
LOT 6 (295) LIVINGSTONE ROAD, LIVINGSTONE, HUNDRED OF CAVENAGH**

APPLICANT

Natalie Higgins and Russell Koenig

Applicant: Natalie Higgins attended.

Submitter: Garry Dembon sent his apologies and a further submission, which was provided to the DCA members for the meeting.

Submitter: Chiara Caswell sent her apologies.

Submitters: Ronald Heyes, Mark Taylor and Glyn Caswell attended.

Interested parties Don and Barbara Cotton attended.

**RESOLVED
110/22**

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 6 (295) Livingstone Road Livingstone, Hundred of Cavenagh for the purpose of Animal boarding and intensive animal husbandry (dog breeding) to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

1. Amended plans, drawn to scale, with dimensions generally in accordance with the plans submitted with the application but modified to show:
 - (a) A plan of the area of the existing and proposed development (being the North West corner of the subject site). The plan shall include:
 - i. all existing and proposed buildings (including water tanks), and their distance from lot boundaries;
 - ii. vehicle access points, driveways, 4 car parking spaces, vehicle turnaround area and proposed finished surface of parking area, in accordance with Clause 5.2.4.4 Parking Layout of the NT Planning Scheme;
 - iii. all proposed dog runs, their corresponding buildings and perimeter fencing type and heights;

- (b) a floor plan of the proposed kennel building detailing the layout, any partitioning, proposed noise attenuation measures such as insulation, room sizes and uses, including the area to be set aside for breeding, puppy space and internal runs;
 - (c) details of landscape planting and fencing to a height of not less than 1.8m along the perimeter of the kennel building, dog breeding and exercise yard/s.
2. The maximum number of dogs to be kept on the site while the kennel and dog breeding activities are taking place on the site, this is to also include owner's dogs;
 3. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into Litchfield Council's stormwater drainage system shall be submitted to and approved by Litchfield Council, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

Amended, more detailed and dimensioned plans will help the consent authority to determine whether the land is sufficiently capable of supporting the proposed development in its entirety.

2. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application

Six submission were received that raised concerns in relation to noise impacts from barking dogs and potential waste pollution impact on nearby waterways.

Further detail on the proposed development and the use of the site will assist the consent authority in determining the effect of the development on the land and on other land in the immediate locality, which may be affected by the development.

3. The preparation and implementation of a stormwater management plan to the satisfaction of Litchfield Council is recommended to demonstrate the proposed use will not adversely impact on the receiving environment.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Deferral

ITEM 4

PA2022/0377

DWELLING-SINGLE WITH ANCILLARY DWELLING-INDEPENDENT WITH A FLOOR AREA IN EXCESS OF 80M2 WITH A SEPARATE EFFLUENT DISPOSAL SYSTEM

SECTION 1950 (165) KRICHAUFF ROAD, HUMPTY DOO HUNDRED OF STRANGWAYS

APPLICANT

UrbanSmart Planning

An addendum – further information from the applicant was provided to the DCA members prior to the meeting.

Applicant: George Dakis (UrbanSmart Planning) attended.

**RESOLVED
11/22**

That, pursuant to section 53(c) of the *Planning Act 1999*, the Development Consent Authority refuse to consent to the application to develop Section 1950 (165) Krichauff Road, Humpty Doo, Hundred of Strangways for the purpose of a dwelling-single with ancillary dwelling-independent with a floor area in excess of 80m² with a separate effluent disposal system for the following reasons:

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and a Dwelling-single with ancillary dwelling-independent with a floor area in excess of 80m² with a separate effluent disposal system requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(ii)(2), therefore Clause 4.7 (Zone RL – Rural Living), Clause 5.2.1 (General Height Control), Clause 5.2.4 (Vehicle Parking), Clause 5.4.2 (Residential Height Limitations), Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 5.4.6 (Private Open Space) and Clause 5.4.13 (Dwelling-independent) need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.4.13 (Dwelling-independent).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
- (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found not to be in accordance with Clause 5.4.13 (Dwelling-independent), because the proposal will result in the dwelling-independent having a floor area exceeding 80m² and a separate effluent disposal system is proposed.

The purpose of Clause 5.4.13 is to ensure a dwelling-independent provides for increase housing choice while remaining ancillary to the dwelling-single on a site and is developed in a matter that avoids significant impact on the amenity of adjoining and nearby property; does not detrimentally impact on the natural environment and does not adversely impact on the local road network.

Administratively, the consent authority may consent to a dwelling independent that is not in accordance with sub-clause 5 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on the surrounding amenity.

Sub-clause 5 of Clause 5.4.13 states that the maximum floor area of the dwelling-independent in Zone RL (Rural Living) shall not exceed 80m². The floor area of the proposed dwelling-independent is 115m².

Administratively, the consent authority must also not consent to a dwelling-independent that is not in accordance with sub-clause 7 unless:

- (a) Documentary evidence that an existing wastewater management system does not comply or will not comply with the requirements of the Code of Practice for Wastewater Management as a result of the proposed dwelling-independent, is provided by:
 - i. A registered certifying plumber and drainer or certifying engineer (hydraulic)(for locations within declared building control areas under the provisions of the *Building Act 1993*); or
 - ii. A licensed plumber and drainer or hydraulic consultant (for locations where the *Building Act 1993* does not comply; and
- (b) It can be demonstrated by a site and soil evaluation report completed by an appropriately qualified site-and-soil evaluator that a wastewater management system complying with the requirements of the Code of Practice for Wastewater Management can be installed for the proposed development.

It is considered that a variation to this clause is not appropriate in this instance because the floor area of the proposed dwelling-independent

greatly exceeds the maximum floor area allowed in Zone RL. With three bedrooms, a floor area of 115m² and a separate waste disposal system, the existing dwelling exceeds intention of the Scheme to provide for an auxiliary and subordinate second dwelling on a site. The proposed dwelling-independent contains the similar layout and the same number of bedrooms, and this leads to a conclusion that the development will result in two comparably sized dwellings on the site.

The development, as proposed, is not consistent with the character of the locality, which mostly contains dwelling-single developments on similar sized allotments in a rural residential area. Dwelling-independent forms of development are common throughout the locality; however these are much smaller than the one proposed on this site and as such are consistent with the requirement to be an ancillary component to the dwelling-single. A development permit issued for a dwelling-independent with a floor area of 115m² and an independent waste disposal system could lead an increase in the number of larger dwelling-independents in the locality and as such place an unnecessary pressure on land capability and infrastructure in the rural areas.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

With a lot size of 2 hectares, the subject land has the capacity to allow for a dwelling-independent, provided it meets the purpose and requirements of the zone and relevant part 5 clauses. The subject land is irregular in shape, relatively flat and contains vegetation throughout the site. The land is developed with an existing dwelling-single. Existing access from Krichauff Street will be retained.

The application has provided a Site and Soil Evaluation Report from a certified consultant that states an additional waste water management system installation can comply with the Code of Practice for Wastewater Management. The subject land is not affected by overlays relating to storm surge or flooding.

Additionally, the Department of Environment, Parks and Water Security did not identify or raise any issues of concern in relation to land capability.

4. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

No impacts on the existing amenity of this and surrounding land are foreseen as a result of the proposed development. However, an approval of dwelling-independent proposals of this size can increase population density and as such can have long-term implications on the amenity of

the rural residential areas through increased traffic and demand for services. Approval of a large dwelling independent can also be perceived by the community as endorsement of dual occupancy style residential development, a trend that is not supported in Zone RL (Rural living).

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Refusal

RATIFIED AS AN RECORD OF ATTENDANCE AND DETERMINATIONS MADE AT THE MEETING

SUZANNE PHILIP
Chair

16 November 2022