

Deemed Provisions – CI 67 Matters to be considered by local Government

Land Use:

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment:</p> <p>The subject site is zoned 'Special Rural' under the Shire's TPS2. Under Table 1 – Zoning Table of TPS2, the land use of 'Ancillary Dwelling' is an 'AA' or discretionary use in the 'Special Rural' zone which means "<i>Council may, at its discretion, permit the use</i>". The land use is therefore able to be considered within TPS2.</p>			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment:</p> <p>The subject site would be zoned 'Rural Residential' under the Shire's draft LPS3. Under Table 3 – Zoning Table of LPS3, the land use of 'Ancillary Dwelling' is a 'P' or permitted use in the 'Rural Residential' zone which "<i>means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme</i>".</p>			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment:</p> <p>The requirements of State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes and State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7) have been considered in the relevant sections of this report.</p>			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<p>Comment:</p>			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<p>Comment:</p>			

f) any policy of the State	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The requirements of State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes and State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7) have been considered in the relevant sections of this report.			

g) any local planning policy for the Scheme area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The requirements of Local Planning Policy 4.1 – Ancillary Dwellings (LPP4.1) and Local Planning Policy 4.16 – Tree Retention and Planting (LPP4.16) have been considered in the relevant sections of this report.			

h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

Development:

k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment:</p>			
<p><u>Form of Development and Amenity</u></p>			
<p>The development of Ancillary Dwellings is guided by the R-Codes and LPP4.1. The proposal is largely compliant except for the following two variations:</p>			
<ul style="list-style-type: none"> • The proposal varies the deemed-to-comply requirements of the R-Codes for lot boundary setbacks, proposing 8m in lieu of 10m; and • The proposal varies the plot ratio standards of LPP4.1, proposing 132.5m² in lieu of 100m². 			
<p>LPP4.1 states that “Ancillary Dwellings with a plot ratio in excess of 100m² will not be supported unless exceptional circumstances are demonstrated and the design requirements of Schedule 1 are met.”</p>			
<p>The proposal has been assessed against the objectives of the R-Codes and LPP4.1 following:</p>			
<p>R-Codes – Clause 5.1.3 – Lot Boundary Setback Variation Assessment</p>			
<p>Design Principle</p>	<p>Comment</p>		
<p><i>P3.1 Buildings set back from lot boundaries or adjacent building on the same lot so as to:</i></p> <ul style="list-style-type: none"> • <i>Reduce impacts of building bulk on adjoining properties;</i> 	<p>Complies. The proposal seeks approval for a minor 2m setback variation to the south side lot boundary. The ancillary dwelling by way of form would present an 18m long wall towards the neighbour and a roof pitch height of under 5m. This is considered consistent with a typical single storey residential form of development. The neighbouring residence is set back approximately 58m from the proposed ancillary dwelling location. Therefore, despite the reduced setback Officers do not consider the proposal would generate adverse building bulk to the adjoining neighbour.</p>		
<ul style="list-style-type: none"> • <i>Provide adequate direct sunlight and ventilation to the building and open spaces on the site and adjoining properties; and</i> 	<p>Complies. Officers consider that as the ancillary dwelling would be set back 8m from the lot boundary, it would not result in overshadowing impacting the adjoining neighbour. This satisfies this portion of the design principle.</p>		
<ul style="list-style-type: none"> • <i>Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> 	<p>Complies. The ancillary dwelling is raised to have a floor level approximately 500mm above natural ground level. There are</p>		

	<p>openings facing towards the neighbour to the south. However, the structure is setback 8m from the lot boundary and is compliant with Clause 5.4.1 – Visual Privacy of the R-Codes which only requires raised bedrooms to be set back 4.5m and 6m for other habitable rooms. Therefore, being compliant with the R-Codes deemed-to-comply requirements Officers consider the proposal would not create adverse levels of overlooking or loss of privacy.</p>
LPP4.1 – Plot Ratio Variation Assessment	
Objective	Comment
<p><i>Ensure that Ancillary Dwellings are designed and located to appear visually related with the primary dwelling and minimise impact on the amenity of the locality.</i></p>	<p>Complies. The proposed ancillary dwelling would be attached to existing patios on site and is positioned near existing residential development on site. The ancillary dwelling would therefore maintain a clustered form of development towards the front of the lot, being near to the existing outbuilding, tennis court and patios on site. The form and external appearance of the proposal would match that of the main dwelling as the same pitched roof design is proposed and the structure would have elements such as a verandah, which the existing dwelling has. Therefore, Officers consider the ancillary dwelling would appear visually related and consistent with this objective, not having an adverse impact on the amenity of the locality.</p>
<p><i>Ensure that Ancillary Dwellings are subservient to the primary dwelling.</i></p>	<p>Complies. Officers consider it is not uncommon for ancillary dwellings to have a larger appearance than a 100m² unit, due to the allowance for certain attached non habitable rooms such as storerooms to not be included in plot ratio calculations. Officers note that the proposed increase to floor area is primarily to facilitate an indoor swimming pool room of 22.2m². Officers consider that this would form a key component of wellness regimes that aged members of society would benefit from. Therefore, the increase to floor area is supported from this perspective.</p> <p>The proposal would have a wall and ridge height similar to the existing dwelling. Furthermore, despite the 32.5m² floor area</p>

	variation, the ancillary dwelling is still smaller in scale than the primary dwelling which has a floor area of approximated 320m ² . Therefore, as the ancillary dwelling is far smaller in area than the existing dwelling it would appear subservient, satisfying the objective in this instance.
<i>Protect against increase in residential density and ad hoc fragmentation of land by ensuring that development does not encourage future subdivision.</i>	Complies. As discussed previously, the proposed ancillary dwelling would be situated in close proximity to the existing dwelling and other development on site, maintaining a clustered form of development. This would ensure future subdivision of the land is not encouraged. The site however is zoned 'Special Rural' under TPS2 and would be 'Rural Residential 2' under LPS3. As the site is 2.4 hectares (which is the minimum lot size), it would not be capable of further subdivision.

In summary, the proposal is considered consistent with the Design Principles of the R-Codes and the objectives of LPP4.1. Officers recommend that Council support the variations to LPP4.1 due to the reasons mentioned.

n) the amenity of the locality including the following –	YES	NO	N/A
I. Environmental impacts of the development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. The character of the locality			
III. Social impacts of the development			
Comment:			
Consideration of amenity and character of the locality has been given within the Clause m) section above.			

o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	YES	NO	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			

p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES	NO	N/A
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comment:			

Tree Removal

Clause 67.2(p) requires consideration of whether any trees or vegetation would be affected by a proposal. The proposal seeks to remove four trees, which are not exempt from requiring development approval in accordance with Clause 7.12.4 of TPS2. The applicant proposes to remove these trees to achieve the conditional BAL rating of BAL12.5 for the proposed ancillary dwelling.

Clause 7.12.6 of TPS2 and Local Planning Policy 4.16 - Tree Retention and Planting (LPP4.16) provide the relevant standards in considering the removal of trees in this instance. These standards broadly seek to retain landscape characteristics of the Shire and preserve or improve biodiversity values. The trees proposed for removal were planted by the landowner approximately 35 to 40 years ago, at the time the subdivision was created. These trees are a non-local native species of eucalyptus tree. Therefore, as a non-local native species the biodiversity values and services offered by these trees is reduced to if they were native trees. Furthermore, Officers note that the site maintains a compliant level of canopy coverage in accordance with the Shire's Urban and Rural Forest Strategy, which is a base line of 21% for 'Peri-Urban' areas. Additionally, there are other existing trees within the site and on neighbouring properties that would screen the location of the removal, ensuring the removal of the four trees is not a significant impact to the existing landscape. Therefore, Officers consider that the rural landscape characteristics of the locality would not be adversely impacted.

q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk

YES**NO****N/A****Comment:**

The applicant provided a Bushfire Attack Level Assessment, which provides a BAL-12.5 rating for the ancillary dwelling in line with the requirements of SPP3.7.

r) the suitability of the land for the development taking into account the possible risk to human health or safety

YES**NO****N/A****Comment:**

s) the adequacy of –

- I. The proposed means of access to and egress from the site; and
- II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles

YES**NO****N/A****Comment:**

t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

w) the history of the site where the development is to be located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The application was advertised to adjoining landowners for a period of 14 days from 3 May 2023 to 17 May 2023, in accordance with the Shire's Local Planning Policy 1.4 - Public Consultation for Planning. No submissions were received at the end of the advertising period.			

Za) the comments or submissions received from any authority consulted under clause 66	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

Zb) any other planning consideration the local government considers appropriate	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			