
Items requiring Council Resolution

6.4 DEVELOPMENT APPLICATION 82/17/DA/D1**AUTHOR: TOWN PLANNER****STRATEGIC OUTCOME: Sustainable natural and built landscapes****STRATEGIC OBJECTIVE: 1.1 Support sustainable use of our natural resources and built landscapes****FILE NO: 82/17/DA/D1****RECOMMENDATION: that the Development Application 82/17/DA/D1 for installation of a Transportable Dwelling be approved subject to the following conditions:****1. Approved Plans**

The development shall be implemented in accordance with the details set out on the plans Craig Corfield Building Designs Job No CC 1324 (Sheets 1-5), BSC-001, the application form and on any supporting information received with the application except as amended by the conditions specified hereunder.

2. Critical Stage Inspections

The Principal Certifying Authority for building or subdivision work carried out on a site is required to be satisfied that the work has been inspected on such occasions as are prescribed by the regulations or other occasions required by the principal certifying authority, before the issue of a Certificate of Occupancy or Subdivision Certificate for the building or work. (Section 109E EP&A Act 1979).

3. Occupation

The structure must not be occupied or used until the Principal Certifying Authority has received and determined the application for an "Occupation Certificate".

A Final Occupation Certificate must not be issued unless all required certificates have been received and the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia.

(Section 109C(1)(c) and 109H EP&A Act 1979)

4. Permitted hours for building work

All building work shall be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 5.00pm Saturdays. No work shall be carried out on Sundays and public holidays.

5. Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia

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- 6. Excavations and backfilling**
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 7. Signs to be erected on building & demolition site**
- a. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) stating that unauthorised entry to the work site is prohibited, and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - b. Any such sign is to be removed when the work has been completed. (Clause 78H of Regulation).
- 8. Toilet facilities**
- a. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
 - b. Each toilet provided:
 - (i) must be a standard flushing toilet, and
 - (ii) must be connected:
 - to a public sewer, or
 - if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
 - c. The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- 9. Waste**
- A garbage receptacle for the reception of all waste materials from the site shall be provided prior to building work commencing and shall be maintained and serviced for the duration of the work.
- 10. Smoke Alarms**
- The Environmental Planning and Assessment Amendment (Smoke Alarms) Regulation 2006 requires that all existing buildings used for sleeping must be fitted with smoke alarms that comply with Australian Standard (AS) 3786-1993. Prior to the issuing of a Final Occupation Certificate for the works specified in this consent, the Principle Certifying Authority must be satisfied that the smoke alarm/s are installed and operate correctly.

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11. Protection of public places

- a. If the work involved in the erection or demolition of a building:
 - (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (ii) building involves the enclosure of a public place, hoarding or fence must be erected between the work site and the public place.
- b. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- d. Any such hoarding, fence or awning is to be removed when the work has been completed.

12. Erosion & Sediment Control

Prior to the commencement of any site works appropriate erosion and sediment control measures are to be implemented to prevent any sediment from leaving the site, these measures are to be maintained during the construction phase and can only be removed once appropriate stabilisation has been completed.

13. Stormwater

Stormwater from the dwelling must be directed to an appropriate on-site system to allow storage and to ensure that runoff does not cause damage to occur to neighbouring properties.

Division:

In Favour:

Against:

REPORT:

Background

The subject site is located at 3 Bushlands Road, Tocumwal which is also identified as Lot 542 on Deposited Plan 1107605. The site has been improved by the construction of a residential storage shed and is approximately 2,814m² in size. The subject property is located approximately 1km south of the central business district of Tocumwal, nestled between other residential lots, and contains a handle which provides access from Bushlands Road. The site is located within Zone RU5 – Village Zone under the provisions of the Berrigan Local Environmental Plan 2013 (BLEP 2013).

The property is surrounded by similar land uses, which contain varying sizes of dwelling houses and residential storage sheds with the exception of a recreation reserve to the north. Below is an aerial photo showing the site and neighbouring properties.

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Figure 1 – Aerial Photo showing subject site and neighbouring properties

Proposal

The proposal is for the installation/placement of a two-bedroom transportable dwelling which is 65.8m². Under the *Berrigan LEP 2013*, the property is within the RU5 Village Zone, which permits the installation/placement of a transportable dwelling upon obtaining development consent. The site plan, the floor plan, sections & elevations and photos of the Transportable Dwelling are found in Appendix "B".

Assessment

There are a number of potential impacts related to a proposal of this type which must be addressed if development approval is to be granted.

- **Relevant State Environmental Planning Policy provisions**

There are no State Environmental Planning Policies which need to be taken into account in the assessment of this application.

- **Relevant Berrigan Local Environmental Plan 2013 provisions**

Compatibility

One of the main objectives of the RU5 – Village Zone is to enhance and maintain the unique village character of Berrigan, Barooga, Finley and Tocomwal. The site is a large residential block, and has only been improved by the construction of a residential storage shed which was approved in late 2004. Whilst the immediate land uses are predominately Residential Houses and associated outbuildings, the installation of a transportable dwelling on the largely vacant site is overall compatible with the surrounding residential

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houses. Thus, the character of the area will not be adversely impacted given that the dwelling is relatively new in construction.

• **Relevant Development Control Plan(s) provisions**

Chapter 2 of the Berrigan Development Control 2014 relates to Residential development, which this development is classified. The proposal is mostly consistent with the objectives of the Council, especially in that it 'provides for a variety of residential development that caters for the housing needs of local residents'.

Neighbourhood Character

One of the objectives of the DCP within Chapter 2.1 is maintain the character of existing average and lower density residential neighbourhoods. The development is within the stipulated controls as it meets the scale, density, setbacks and character of the neighbourhood. Additionally, the dwelling is less than 5 years old and to Council's knowledge has not been previously used. Photographs supplied with the application indicate that the dwelling will not adversely impact the existing character. Overall, the location is therefore suitable for a development of this nature.

2.5 Building Setbacks

The development is consistent with the Building Code of Australia given the side, rear and front setbacks. Furthermore, the development meets the objectives of the *Berrigan Development Control Plan 2014* chapter 2.5 concerning setbacks given that it will maintains the existing residential character of low density.

Neighbour Notification

Given the potential impact of the Transportable Dwelling to impact on the existing character, notification was given to the residents of the neighbouring properties on 5 January 2017 to make them aware that the development may affect their property. Following the notification period which was open for approximately 2 weeks, Council received one formal submission relating to the development. The submission unequivocally objected to the development.

Summary of Submission

Within the formal submission correspondence to Council, the objection from the resident comprised of nine major points. These are detailed below:

1. Inconsistent with Berrigan Development Control Plan 2014 – particular with the purpose and objectives of the DCP;
2. Incompatibility with Existing Neighbourhood – the resident expressed that the existing residential neighbourhood of 12 predominantly brick veneer residential dwellings within 150m each with an estimated floor area of 247 square metres is vastly different to the proposed transportable dwelling;
3. Unsympathetic to Neighbourhood Character – the resident had concerns about the neighbourhood's existing distinct character of permanently occupied homes being diminished by a small dwelling on a large allotment;

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4. Plan Diagram not to Scale – The plan diagram grossly overstates and misrepresents the footprint of the ‘modular unit’ hand drawn on the plan;
5. Dwelling Fails to Meet Minimum Standards of LAHC & NSW SEPP 65 – the resident stated that “It seems nonsensical to approve a residential ‘dwelling’ on land measuring 2814 square metres, when the same size dwelling unit would meet neither LHAC design standards for a 2-bed housing unit nor NSW SEPP 65 minimum requirements for a 2-bed apartment”;
6. No Credible Precedent – the resident’s review of Berrigan Shire Council Minutes over the past 12 months revealed that:
 - the overwhelming majority of more than 100 residential approvals were for brick veneer dwellings + garage; and
 - less than 1% of approvals comprised relocatable/moveable/manufactured dwellings in established residential neighbourhoods;
7. Appearance of ‘previously used residence’– Questioned whether Should this proposed ‘dwelling’ be subject to Berrigan Shire’s Previously Used Residence Policy;
8. Lack of Reference to Requirements of the Local Government Act 1993 (NSW) – The resident believes that there was a lack of reference to ‘associated Regulations relating to, among other things, Structural Soundness, Design and Construction for moveable dwellings and/or relocatable dwellings as defined and set out in the legislation;
9. Location – The proposed ATCO-hut style ‘dwelling’ is more appropriate for a small block in a manufactured home estate or caravan park.

Response to Submissions

1. Inconsistent with Berrigan Development Control Plan 2014 – As discussed before, this application is not inconsistent with the DCP given that it is part of Council providing for a variety of residential development that cater for the housing needs of local residents;
2. Incompatibility with Existing Neighbourhood – There are other neighbouring dwelling houses that are similar in nature to this proposed development. These include the corrugated iron dwelling to the west and an older established dwelling to the north;
3. Unsympathetic to Neighbourhood Character – This development will not be unsympathetic to existing character given the large size of the block, the 90m setback from the street and the existing mature vegetation which will act as a screen;
4. Plan Diagram not to Scale – The plan submitted has been updated since notification was given and subsequently the amended plan gives enough information for a Council Officer to determine the footprint of the building;

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5. Dwelling Failing to Meet Minimum Standards of LAHC & NSW SEPP 65 – The Standards of LAHC and NSW SEPP 65 do not apply to this development;
6. No Credible Precedent – There have been Transportable Dwelling approved in all townships of the Berrigan Shire, especially as infill development. This argument is also negated by the fact that this development is not inconsistent with the Berrigan DCP (as discussed above) and is suitable as this location, as discussed below;
7. Appearance of 'previously used residence' – To Council's knowledge, the dwelling has not been previously used. Accordingly, this application does not come under Council Local Policy for the Relocation of Previously Used Residences;
8. Lack of Reference to Requirements of the Local Government Act 1993 (NSW) – The contents of the submitted documentation for the application meet the requirements of the Local Government Act 1993 (NSW). Accordingly, there is enough information for Council to assess this application;
9. Location – The *Berrigan DCP* allows for a variety of residential development that caters for the housing needs of local residents. In addition, there are other Transportable Dwellings that have been approved as part of infill development in accordance with the DCP. Therefore, as the lot is not located in a new subdivision, the location is suitable for a Transportable Dwelling.

Conclusion / Legislation

In assessing this development application, the relevant parts of Section 79C of the *Environmental Planning and Assessment Act 1979* have been taken into account. It is clear that this development, given its design and given that quality materials being used on the exterior, is within the public interest.

Recommendation

There are no prohibitive constraints posed by adjacent developments and although there may be a small impact on the existing character, if the development is implemented in accordance with the conditions of consent it will not represent an unreasonable planning outcome. Overall it is considered that this proposal can be supported.

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