STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSAL: Secondary Dwelling

ADDRESS: 75 Rossi Drive, Orange

November 2021
DESCRIPTION: Secondary Dwelling

CLIENT: Emmalie Stelling

Anthony Daintith Town Planning Pty Ltd
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This document has been authorised by

Anthony Daintith (Principal)
Date: 22 November 2021

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BACKGROUND

This Part provides a detailed description of the site, the background and various components to the proposed development.
BACKGROUND

INTRODUCTION

Emmalie Stelling has engaged Anthony Daintith Town Planning (ADTP) to prepare a Statement of Environmental Effects (SOEE) to support a Development Application to Orange City Council, for a proposed secondary dwelling house at 75 Rossi Drive, Orange.

The purpose of this document is to:

- Describe the existing environment;
- Outline the proposed development;
- Consider relevant statutory matters; and
- Make conclusions and recommendations for Council's consideration.

The development application consists of the following components:

- Statement of Environmental Effects;
- Site and Architectural Plans
- BASIX Certificate.

APPLICANT AND OWNER

The applicant is Emmalie Stelling.

The registered owner of the subject land is Anthony Stelling and Christine Rieksen. The owners have provided their written consent to the lodgement of the Development Application.
SITE ANALYSIS

LOCATION AND TITLE

The subject land is identified 75 Rossi Drive, Orange. Refer to Figures 1 & 2 which depicts the site within the locality.

The land title description is as per Table 1:

<table>
<thead>
<tr>
<th>Lot</th>
<th>DP</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>108</td>
<td>1043048</td>
<td>2.01ha</td>
</tr>
</tbody>
</table>

GENERAL SITE DESCRIPTION

Topography

The subject land falls from the rear to the Rossi Drive (818 to 812m).

Vegetation

The site contains limited landscaping.

Waterways

Nil.

Buildings

The site contains an existing dwelling and detached shed.

Photos 1 – 2 provide a visual representation of the subject site.

SURROUNDING LAND USE

The surrounding land is characterised by residential dwellings.
Figure 1: Locality Map
Photo 1: Existing access to the subject land

Photo 2: Site of the proposed dwelling (behind existing dwelling)
PROPOSED DEVELOPMENT

It is proposed to construct a secondary dwelling on subject land.

The dwelling will have 4 bedrooms and 2 bathrooms. It will have Weathertex clad walls and a Colorbond roof. The dwelling will have a wraparound verandah. The dwelling will have an area of 133.45m² and combined with the verandah a total area of 180.18m².

The dwelling has been designed to blend into the site behind the existing dwelling. The dwelling will be built by the daughter of the owners.

Refer to the development plans for greater details.
Figure 3: Proposed Site Plan
This section provides an evaluation of the relevant matters for consideration under Section 4.15 of the EP&A Act 1979.
TOWN PLANNING CONSIDERATIONS

Pursuant to Section 4.15 (formerly Section 79C) of the Environmental Planning and Assessment Act 1979, the following matters must be taken into consideration when assessing a development application:

4.15 Evaluation
(cf previous s 79C)

Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
(iii) any development control plan, and
(iiiia) 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, and
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.
(a)(i) The provisions of any environmental planning instrument

ORANGE LOCAL ENVIRONMENTAL PLAN 2011

The land is zoned R5 Large Lot Residential under the provisions of the LEP (refer to Figure 5).

Figure 4: LEP – Zoning Map

Applicable LEP Clauses

Zone R5  Large Lot Residential

1  Objectives of zone

• To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
• To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
• To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
• To minimise conflict between land uses within this zone and land uses within adjoining zones.
• To provide for student housing in close proximity to the Charles Sturt University.
To ensure development is ordered in such a way as to maximise public transport patronage, and encourage walking and cycling, in close proximity to settlement.

To ensure development along the Southern Link Road has an alternative access.

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Animal boarding or training establishments; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Crematoria; Dwelling houses; Environmental facilities; Exhibition homes; Extensive agriculture; Home businesses; Home industries; Information and education facilities; Kiosks; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Tank-based aquaculture; Veterinary hospitals; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

Comment

The proposed secondary dwelling is permissible subject to the consent of Council via clause 22 of the Affordable Rental Housing SEPP.

A variation request of the 60m² maximum floor area development standard under Clause 22(3)(b) is made under Clause 4.6 of the LEP.

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,
Comments:

A variation is sought to the 60m² maximum floor area development standard for a secondary dwelling under cl 22(3)(b) of the State Environmental Planning Policy (Affordable Rental Housing) 2009

Following provides justification for the support of the proposed variation to the development standard.

Is the Requirement a Development Standard?

cl 22(3)(b) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (LEP) contains a development standard that provides a maximum floor area for a secondary dwelling.

A written justification for the proposed variation to the maximum floor area for a secondary dwelling is required in accordance with Clause 4.6 of the LEP.

The objectives of Clause 4.6 ‘Exceptions to Development Standards’ are as follows:

(a) To provide an appropriate degree of flexibility in applying certain development standards to particular development; and

(b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 allows for the contravention of a development standard with approval of the consent authority.

A development standard is defined under the Environmental Planning and Assessment Act, 1979 as:

“Provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development”

Subclause (3) requires the consent authority to consider a written request from the applicant that demonstrates:

a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

b) That there are sufficient environmental planning grounds to justify contravening the development standard.
Subclause (4) requires the consent authority to be satisfied that:

i) The applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3); and

ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 22(3)(b) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 is a development standard.

This view is reinforced by the fact that the same standard is found in cl 4 of Schedule 1 to the SEPP, which is entitled “Development standards for secondary dwellings”.

Extent of Variation to the standard

The proposed secondary dwelling has a gross floor area of 133.45m² – (the development standard under Clause 22(3)(b) is 60m².

The development therefore results in a variation to 73.45m².

Is the Requirement a Development Standard and does subclause 8 apply?

Clause 22(3)(b) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 contains a development standard that prescribes the maximum floor area of a secondary dwelling. Clause 22 states:

22 Development may be carried out with consent

(1) Development to which this Division applies may be carried out with consent.

(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.

(3) A consent authority must not consent to development to which this Division applies unless—

(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and

(b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.

(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds—

(a) site area

if—

(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or

(ii) the site area is at least 450 square metres,

(b) parking

if no additional parking is to be provided on the site.
Clause 22(3)(b) is a development standard.

Subclause 8 does not apply to the subject development.

**What is the underlying object or purpose of the standard?**

There are no stated objectives under Clause 22.

**Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

The development standard is considered unreasonable in the circumstances due to the following reasons:

- The development is not inconsistent with the objectives of the zone.
- The refusal of this proposal will be a restriction on housing choice.
- The proposed secondary dwelling is considerably smaller than the existing principal dwelling on the subject land (it is proposed that the daughter and granddaughter of the owners will be living in the dwelling).
- The secondary dwelling is about 30% of the size of the existing principal dwelling. It is noted that the Orange LEP permits secondary dwellings up to 50% of the area of the principal dwelling is most areas.
- There are other examples of larger secondary dwellings in the Clifton Grove area. The following details have been provided by the applicant and are understood to be over 60m²:

<table>
<thead>
<tr>
<th>Address</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>44 Rossi Drive, Clifton Grove</td>
<td>Duplex building.</td>
</tr>
<tr>
<td>35 Rossi Drive, Clifton Grove</td>
<td>Was built with the intention of housing the mother and father on one side and their child and live-in carer on the other.</td>
</tr>
<tr>
<td>110 Rossi Drive, Clifton Grove</td>
<td>The shed-house was built initially for the family to live in. There is now a large house on the property and the current owners are running a BnB out of the shed-house.</td>
</tr>
<tr>
<td>134 Rossi Drive, Clifton Grove</td>
<td>The shed was being used as a secondary dwelling for the owner's son for at least 2 years. It burnt down this year while the son was living in it due to a fireplace being incorrectly installed.</td>
</tr>
<tr>
<td>2 Homestead Close, Clifton Grove</td>
<td>The property was last sold in 2016 and a secondary dwelling has since been built. It has 3 bedrooms, 2 bathrooms, a lounge room, a separate dining room and a family room.</td>
</tr>
<tr>
<td>4 Old Regret Road, Clifton Grove</td>
<td>A request to build a shed with an ensuite bathroom was approved earlier this year. It is currently being used as a secondary dwelling by two of the family's children.</td>
</tr>
<tr>
<td>6 The Overflow, Clifton Grove</td>
<td>There is a small log cabin located on the property that has been used as a secondary dwelling for a long period of time.</td>
</tr>
<tr>
<td>25 The Overflow, Clifton Grove</td>
<td>There is a small tow away house on the property currently being used as a BnB.</td>
</tr>
</tbody>
</table>
3 Kileys Run, Clifton Grove | There is a shed house on the property that is currently being used as an BnB. This is in addition to the existing dwelling that is being occupied by the property owners.

Silver Gums Studio – White Hill Lane | This area is a newer subdivision of Clifton Grove, it was previously farming land. The studio is being used as a BnB and is in addition to the existing dwelling that is occupied by the property owners.

5 Don Peters lace | A secondary dwelling for this property was approved by Orange City Council in 2019.

4 Matilda Avenue, Clifton Grove | Secondary dwelling approved in 2011

3 Old Regret Road, Clifton Grove | Secondary dwelling approved in 2015

5 Don Peters Road, Clifton Grove | While there is an approved secondary dwelling on this property, there is a third dwelling behind the approved one.

3 Don Peters Place, Clifton Grove | This property also has a secondary dwelling that appears to be unfinished. There is a very large shed behind this with solar panels and a water tank connected.

5 Fawcett Ridge | There is a secondary dwelling build to the side of the existing house.

- The variation sought is relatively minor.
- The standard unreasonably restricts effective utilisation of the land to achieve the objectives of the zone.
- The standard will unnecessarily restrict the achievement of the highest and best yield of the land resource.

**Are there sufficient environmental planning grounds to justify contravening the standard?**

The design proposes an appropriate development form that is reflective of the desired future character of the area and responds to the constraints and opportunities of this site comparable to the existing principal dwelling and neighbouring development.

The development in its current form results in a better urban planning outcome for the following reasons:

- The development generally complies with the provisions of the Council LEP and DCP.
- There are a number of secondary dwellings within the vicinity of the subject land.
- The proposed secondary dwelling is provided with an appropriate level of amenity.
- There is no identifiable impact on the amenity of the neighbouring properties.
• There are no overshadowing impacts.
• There is no aesthetic impacts identified as a result of the proposed dwelling.
• The proposed dwelling is located behind the existing principal dwelling and will not be readily seen from Rossi Drive.
• It is proposed to utilise the existing access off Rossi Drive.
• Effluent disposal can be satisfactorily achieved onsite.
• There will be no impact on public services and utilities.
• No pollution impact identified.
• Does not detract from the existing dwelling as the principal dwelling on the site.
• The secondary dwelling is not out of character with the neighbouring development.

On the basis of the discussion in this report and the points above, there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Will the proposed development be in the public interest because it is consistent with objectives of the particular standard and the objectives for development within the zone in which the development proposed is to be carried out?**

The proposed development maintains compliance with the objectives of the R5 Large Lot Residential zone as detailed below:

• To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
• To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
• To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
• To minimise conflict between land uses within this zone and land uses within adjoining zones.
• To provide for student housing in close proximity to the Charles Sturt University.
• To ensure development is ordered in such a way as to maximise public transport patronage, and encourage walking and cycling, in close proximity to settlement.
• To ensure development along the Southern Link Road has an alternative access.

Clause 22 does not have a stated objective.

As detailed throughout this report, the proposed development is not inconsistent with the relevant objectives of the R5 zone.

**Whether or not non-compliance with the development standard raises any matter of significance for State or Regional environmental planning?**

The variation to the dwelling size for the secondary dwelling will not raise any matter of significance for State or regional environmental planning.
The public benefit of maintaining the development standard

There is no public benefit of maintaining the development standard in this instance due to the relatively minor extent of the variation, similar development within the vicinity of the site and no identifiable impact on the environment or neighbouring development. This report has determined that the variation to the planning control will result in an outcome that is acceptable on this site.

Any other matters required to be taken into consideration by the Director General before granting concurrence?

There are no other matters that are required to be taken into consideration.

7.6 Groundwater vulnerability

(1) The objectives of this clause are to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from depletion and contamination as a result of inappropriate development.

(2) This clause applies to land identified as “Groundwater Vulnerability” on the Groundwater Vulnerability Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether or not the development (including any on-site storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and

(b) the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact,

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment

The Groundwater Vulnerability Map identifies the land as having “groundwater vulnerability” (see Figure 5). There will be very minor disturbance to the ground
as a result of the dwelling. Accordingly, it is considered the development will not impact upon groundwater.

Figure 5: LEP – Groundwater Vulnerability Map

7.11 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—

(a) the supply of water,
(b) the supply of electricity,
(c) the disposal and management of sewage,
(d) storm water drainage or on-site conservation,
(e) suitable road access.

Comment

It is proposed to utilise tank water to supply the proposed dwelling.
There is already electricity to the existing dwelling and can be connected to the proposed dwelling.

It is proposed to dispose of effluent onsite via a new onsite disposal system as per the recommendations of the effluent report prepared by Envirowest Consulting.

Stormwater drainage will continue overland as per current practice.

It is proposed to utilise the existing access to the subject land without change.

STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY AFFORDABLE RENTAL HOUSING

19 Definition

In this Division—

development for the purposes of a secondary dwelling includes the following—

(a) the erection of, or alterations or additions to, a secondary dwelling,
(b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note—
The standard instrument defines secondary dwelling as follows—

secondary dwelling means a self-contained dwelling that—

(a) is established in conjunction with another dwelling (the principal dwelling), and
(b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
(c) is located within, or is attached to, or is separate from, the principal dwelling.

Comments

The application seeks consent for a secondary dwelling.

The secondary dwelling will be established in conjunction with the principal dwelling on the subject land. It is proposed that the owner’s daughter and granddaughter live in the house. The secondary dwelling is on the same lot as the principal dwelling with no subdivision potential. The secondary dwelling is located not far from the rear of the existing principal dwelling.

20 Land to which Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land—

(a) Zone R1 General Residential,
(b) Zone R2 Low Density Residential,
(c) Zone R3 Medium Density Residential,
(d) Zone R4 High Density Residential,
(e) Zone R5 Large Lot Residential.
Comments

The subject land is zoned R5 Large Lot Residential.

21 Development to which Division applies
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling and ancillary development (within the meaning of Schedule 1).

Comments

Consent is sought for a secondary dwelling.

22 Development may be carried out with consent

(1) Development to which this Division applies may be carried out with consent.

(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.

(3) A consent authority must not consent to development to which this Division applies unless—
   (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and
   (b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.

(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds—
   (a) site area
      if—
      (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or
      (ii) the site area is at least 450 square metres,
   (b) parking
      if no additional parking is to be provided on the site.

(5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Comments

There is only one existing dwelling on the subject land (principal dwelling).

Refer to the Clause 4.6 variation request relating to the 60m² floor area development standard.
**STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND**

7 **Contamination and remediation to be considered in determining development application**

(1) A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:

   (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

   (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

**Comment**

Pursuant to Clause 7 of the SEPP, the potential for contamination appears minimal. This is based upon an inspection of the site.
In terms of potential soil contamination, the subject land has been evaluated for:

- Evidence of previous mining activity;
- Evidence of existing and previous dip sites and other associated infrastructure;
- Evidence of orcharding; and
- Vegetative and other features which could indicate possible soil contamination.

Accordingly, it is recommended that a detailed investigation is not necessary or warranted in this instance.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

A BASIX certificate has been provided with the application.

(a)(ii) Any draft environmental planning instrument

There are no known draft environmental planning instruments relevant to this proposed development.

(a)(iii) Any development control plan

ORANGE CITY COUNCIL DEVELOPMENT CONTROL PLAN 2004

It is considered that there are no aspects of the proposed development that would contravene the provisions of the Orange City Development Control Plan 2004.

Following is an assessment of the relevant provisions of the DCP:

7.7 Design Elements for Residential Development Streetscape

Below is an assessment of the relevant “Planning Outcomes”:
PLANNING OUTCOMES FOR NEIGHBOURHOOD CHARACTER

1. Site layout and building design enables the:
   • creation of attractive residential environments with clear character and identity;
   • use of site features such as views, aspect, existing vegetation and landmarks.

2. Buildings are designed to complement the relevant features and built form that are identified as part of the desired neighbourhood character.

3. The streetscape is designed to encourage pedestrian access and use.

Comment

The proposed secondary dwelling is considered secondary to the existing dwelling. The dwelling is sited having taken into consideration site features such as views, aspect, existing vegetation and landmarks. The materials and colours are in keeping with the surrounding development and offer an acceptable appearance.

There are no existing vegetation features on the site of the proposed dwelling.

The topography and aspect of the site has been taken into consideration as part of the design of the proposal.

No negative impact on pedestrian access and use identified.

The plans include a site analysis.

PLANNING OUTCOMES – BUILDING APPEARANCE

1. The building design, detailing and finishes relate to the desired neighbourhood character, complement the residential scale of the area and add visual interest to the street.

2. The frontage of buildings and their entries address the street.

3. Garages and car parks are sited and designed so that they do not dominate the street frontage.

Comment

There is no aspect of the proposal that is considered outside the desired neighbourhood character. The scale of the development is in keeping with the existing principal dwelling and that of the surrounding residential development.

The secondary dwelling is proposed at the rear of the existing principal dwelling.

It is proposed to utilise the existing garage adjacent to the proposed dwelling.
PLANNING OUTCOMES – HERITAGE

1. Heritage buildings and structures are efficiently re-used.
2. New development complements and enhances the significance of a heritage item or place of heritage significance listed in the Orange Heritage Study.
3. Significant landscape features are retained including original period fences and period gardens.

Comment

There are no heritage items on the site, nor is it located within a heritage conservation area.

PLANNING OUTCOMES – SETBACKS

1. Street setbacks contribute to the desired neighbourhood character, assist with integration of new development and make efficient use of the site.
2. Street setbacks create an appropriate scale for the street considering all other streetscape components.

Comment

Located at the rear of the existing principal dwelling. The secondary dwelling is located within the building envelope identified on the DP with significant side and rear setbacks.

PLANNING OUTCOMES – FENCES AND WALLS

1. Front fences and walls:
   - assist in highlighting entrances and creating a sense of identity within the streetscape.
   - are constructed of materials compatible with associated housing and with fences visible from the site that positively contribute to the streetscape
   - provide for facilities in the street frontage area such as mail boxes.

Comment

There is existing fencing around the perimeter of the site.

PLANNING OUTCOMES – VISUAL BULK

1. Built form accords with the desired neighbourhood character of the area with:
   - side and rear setbacks progressively increased to reduce bulk and overshadowing;
   - site coverage that retains the relatively low-density, landscaped character of residential areas;
   - building form and siting that relates to land form, with minimal land shaping (cut and fill);
   - building height at the street frontage that maintains a comparable scale with the predominant adjacent development form;
   - building to the boundary where appropriate.
Comment

The proposed dwelling has been designed to fit within the visual bulk envelope (generated by planes projected at 45 degrees over the site commencing 2.5 metres above existing ground level from each side and rear boundary).

The proposed dwelling covers substantially less than 50% of the site.

**PLANNING OUTCOMES - WALLS AND BOUNDARIES**

1. Building to the boundary is undertaken to provide for efficient use of the site taking, into account:
   - the privacy of neighbouring dwellings and private open space;
   - the access to daylight reaching adjoining properties;
   - the impact of boundary walls on neighbours.

Comment

There is no identified impact on neighbouring dwellings in terms of loss of daylight and privacy.

Shadow diagrams are not considered necessary. No privacy impacts from windows have been identified.

**PLANNING OUTCOMES - DAYLIGHT AND SUNLIGHT**

1. Buildings are sited and designed to ensure:
   - daylight to habitable rooms in adjacent dwellings is not significantly reduced;
   - overshadowing of neighbouring secluded open spaces or main living-area windows is not significantly increased;

Comment

The building is sited so as not to cause any overshadowing on the adjoining sites.

**PLANNING OUTCOMES - VIEWS**

1. Building form and design allow for residents from adjacent properties to share prominent views where possible.
2. Views including vistas of heritage items or landmarks, are not substantially affected by the bulk and scale of new development.

Comment

No significant views have been identified either from the subject land or to the subject land that will be impacted upon by the secondary dwelling.
The proposed development has been designed to comply with the DCP and LEP provisions. There is no non-compliance identified that is causing an impact on the views of the neighbouring dwelling.

No bulk and scale issues have been identified.

**PLANNING OUTCOMES – VISUAL PRIVACY**

1. Direct overlooking of principal living areas and private open spaces of other dwellings is minimised firstly by:
   - building siting and layout;
   - location of windows and balconies; and secondly by;
   - design of windows or use of screening devices and landscaping.

Comment

There are no living room windows facing the neighbouring properties from the proposed dwelling.

There are no overlooking directly at the Principal Living Areas and Private Open Space areas of neighbouring properties.

**PLANNING OUTCOMES - ACOUSTIC PRIVACY**

1. Site layout and building design:
   - protect habitable rooms from excessively high levels of external noise;
   - minimise the entry of external noise to private open space for dwellings close to major noise sources;
   - minimise transmission of sound through a building to affect other dwellings.

Comment

No issues in relation to acoustic privacy have been identified.

**PLANNING OUTCOMES – SECURITY**

1. The site layout enhances personal safety and minimises the potential for crime, vandalism and fear.
2. The design of dwellings enables residents to survey streets, communal areas and approaches to dwelling entrances.

Comment

A formal crime-risk assessment is not considered warranted in this instance.

The development generally meets the principles of “Crime Prevention Through Environmental Design (CPTED).”

It is proposed to utilise the existing access and driveway.
PLANNING OUTCOMES - PUBLIC TRANSPORT

1. Residential unit development is accessible to public transport.

Comment

Not applicable to this proposal.

PLANNING OUTCOMES – CIRCULATION DESIGN

1. Accessways and parking areas are designed to manage stormwater.
2. Accessways, driveways and open parking areas are suitably landscaped to enhance amenity while providing security and accessibility to residents and visitors.
3. The site layout allows people with a disability to travel to and within the site between car parks, buildings and communal open space.

Comment

It is proposed to utilise existing access and driveway.

PLANNING OUTCOMES - CAR PARKING

1. Parking facilities are provided, designed and located to:
   • enable the efficient and convenient use of car spaces and accessways within the site;
   • reduce the visual dominance of car-parking areas and accessways.
2. Car parking is provided with regard to the:
   • number and size of proposed dwellings;
   • requirements of people with limited mobility or disabilities.

Comment

It is proposed to utilise the existing garage.

PLANNING OUTCOMES – PRIVATE OPEN SPACE

1. Private open space is clearly defined for private use.
2. Private open space areas are of a size, shape and slope to suit the reasonable requirements of residents, including some outdoor recreational needs and service functions.
3. Private open space is:
   • capable of being an extension of the dwelling for outdoor living, entertainment and recreation;
   • accessible from a living area of the dwelling;
   • located to take advantage of outlooks and to reduce adverse impacts of overshadowing or privacy from adjoining buildings;
   • orientated to optimise year-round use.
Adequate private open space has been provided.

PLANNING OUTCOMES – OPEN SPACE AND LANDSCAPING

1. The site layout provides open space and landscaped areas which:
   • contribute to the character of the development by providing buildings in a landscaped setting;
   • provide for a range of uses and activities including stormwater management;
   • allow cost-effective management.

2. The landscape design specifies landscape themes consistent with the desired neighbourhood character and vegetation types and location, paving and lighting are provided for access and security.

3. Major existing trees are retained and protected in a viable condition whenever practicable through appropriate siting of buildings, accessways and parking areas.

4. Paving is applied sparingly and integrated in the landscape design.

There is existing landscaping on the site.

PLANNING OUTCOMES – STORMWATER

1. On-site drainage systems are designed to consider:
   • downstream capacity and the need for on-site stormwater retention, detention and re-use;
   • scope for on-site infiltration of water;
   • safety and convenience of pedestrians and vehicles;
   • overland-flow paths.

2. Provision is made for on-site drainage which does not cause damage or nuisance flows to adjoining properties.

Site stormwater drainage for the proposed dwelling will be overland as per current practice.

PLANNING OUTCOMES - EROSION AND SEDIMENT CONTROL

1. Measures implemented during construction to ensure that the landform is stabilised and erosion is controlled.
Comment

Appropriate erosion and sediment controls will be implemented as part of the construction of the dwelling.

(a)(iii) Any Planning Agreements

There are no known planning agreements affecting the property.

(a)(iv) Any matters prescribed by the regulations:

Government Coastal Policy

Not applicable to Orange LGA.

Building Demolition

Not applicable.

Upgrading of Buildings

Not applicable.

Fire Safety

Not applicable.

Temporary Structures

Not applicable to this proposal.

Deferred Commencement Consent

Not applicable to this proposal.

Modification or Surrender of Development Consent or Existing Use

Not applicable.
Ancillary Development

Not applicable to this proposal.

BASIX

A BASIX certificate has been provided.

(b) The likely impacts of the development:

CONTEXT AND SETTING

The surrounding area is characterised residential development.

It is considered that the proposal is within the context of the locality and is compatible with the surrounding area and will have acceptable impact in regard to (as justified in this report):

- Adjacent properties;
- Adjoining land uses;
- Overshadowing; and
- Views and vistas.

The proposed development is considered compatible with the adjacent land uses.

Conversely, there are no adjoining uses identified that would have a detrimental impact on the proposed secondary dwelling.

ACCESS AND TRANSPORT

Access

It is proposed to utilise the existing driveway off Rossi Drive.

Car Parking

It is proposed to utilise the existing garage adjacent to the dwelling.

PUBLIC DOMAIN

It is considered that the development will have a negligible impact on the public domain in terms of:

- Public recreational opportunities in the locality;
• Amount, location, design, use and management of public spaces in and around the development; and
• Pedestrian linkages and access between the development and public areas.

UTILITIES & SERVICES

The secondary dwelling will be connected to all available services. Water supply will be via rainwater tanks and effluent disposal onsite as per the effluent report.

HERITAGE

There are no heritage items on the subject land. The subject land is not located within a heritage conservation area.

FLORA AND FAUNA

The land does not have any critical habitat, threatened species, populations or ecological communities or their habitats.

The subject land is cleared of any vegetation.

ENERGY

Refer to the BASIX certificate.

AMENITY

There are no identified negative amenity impacts as a result of the proposed dwelling – refer to DCP compliance.

NATURAL HAZARDS

There are no known flooding, bushfire or land subsidence issues in the general locality of the site.

POTENTIAL CONTAMINATION

There are no signs of potential contamination on the land. It is considered that a preliminary contamination assessment is not warranted in this instance.

SAFETY, SECURITY & CRIME PREVENTION

No specific measures are considered necessary.
SOCIAL & ECONOMIC IMPACTS IN THE LOCALITY

It is considered that there will be negligible economic and social impacts as a result of the proposed dwelling.

CONSTRUCTION

Construction work will be undertaken as outlined in the Proposal Section of this report.

Construction impacts are not anticipated to have an adverse impact on the locality. Works would occur during daytime hours, thus not impacting on the local amenity. The site would have temporary containment fencing erected and signage to warn and exclude the public from entering the site during the construction phase.

Erosion and sedimentation control measures would be implemented during construction to minimise any erosion and sedimentation at the site.

All waste generated during construction would be taken and disposed of at Council’s Waste Disposal Facility.

Construction activities would be tailored to minimise the impact on site, with all disturbed areas rehabilitated as soon as practical. All construction machinery would be fitted with appropriate muffling devices to limit noise generation during construction. The construction period would be for a limited period, and thus any impacts would be limited to that time frame.

CUMULATIVE IMPACTS

It is considered there will be negligible negative cumulative impacts as a result of the proposed secondary dwelling.
(c) Suitability of the site for the development

Does the proposal fit in the locality?

- There are no constraints posed by surrounding development to render the proposal prohibitive;
- The proposal is complimentary to the surrounding land use pattern and zoning;
- It is considered that the proposal will not create any unmanageable access or transport concerns in the locality;
- No impact on public spaces will eventuate as a result of the proposal proceeding;
- The site is already connected to all available services available to the site;
- There are no issues in relation to air quality and microclimate; and
- There are no identified surrounding hazardous land uses or activities.

Are the site attributes conducive to development?

It is considered that the site is conducive to the proposal based on the following:

- The site is not affected by any known natural hazards;
- There are no heritage considerations;
- There is no known soil characteristics that would render the proposal prohibitive; and
- There are no flora and fauna considerations that will have an impact on the proposal.

(d) Any submissions

The application may be referred to adjoining neighbours for comment.

(e) The public interest

The proposed development is considered to be only of minor interest to the wider public due to the relatively localised nature of potential impacts. It is believed that by the imposition of appropriate conditions of consent and the safeguards discussed in this report, potential impacts would be modest.
CONCLUSION

This Part provides a conclusion and recommendations for Council’s consideration
CONCLUSION

This report includes an analysis of the existing environment, details of the proposed development and consideration of applicable statutory requirements.

Based upon the investigations of the proposal it can be concluded that:

- The proposed development is permissible with the consent of Council;
- The impacts upon or by surrounding development will not be altered significantly as a result of the proposal;
- The dwelling has been designed with respect to the topography of the site;
- There is negligible impact on the amenity of the area;
- The Clause 4.6 variation request is supportable; and
- The proposal is generally consistent with the objectives and provisions of Councils relevant planning documents.

The proposal is considered to be acceptable in terms of Section 4.15 of the Environmental Planning and Assessment Act 1979, and potential impacts are expected to be manageable.

Accordingly, it is recommended that the Development Application be approved subject to appropriate standard conditions.