Report of Development Application

Environmental Planning and Assessment Act 1979

Application Details	Application Number	*DA23/0233*	Applicant	*Matt Jenkins Builder Pty Ltd* *18 Dobney Ave* *WAGGA WAGGA NSW 2650*
	Date of Lodgement	*16/05/2023*		
	Proposal	*Dwelling*	Description of Mod.	N/A
	Development Cost	*$504383*	Other Approvals	Nil

Site Details	Subject Land	*9 Paroo Pl* *TATTON NSW 2650* *Lot 26 DP 1291851*	Owner	*PJ Burton & MT Burton*

Recommendation: The application be approved subject to conditions of consent as detailed in the draft Notice of Determination.

Delegation to Determine Application:- Officer Delegation 7.39

Report Prepared by:

Lani Hudson
Cadet Town Planner

Date: 24/05/23

Report Approved by:

Amanda Gray
Senior Town Planner

Date:24.5.2023

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☒ **Section 4.55 Modification of Consent**

☐ **Section 4.15(1) Matters for consideration - general**

Description	Dwelling

Matters for consideration

GIS & System Check	Section 4.15(1) *EP&A Act 1979*	Issue	Legislative Provisions	Not Relevant	Satisfactory	Comment
✔	(b) (c) (e)	**DA History**		○ *NR*	● *Sat*	DA19/0649 as amended

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LEP 2010 Zones	(a)(i) (b) (c) (e)	**Zoning**	**LEP** 2.2 Zoning of land to which Plan applies 2.3 Zone objectives and Land Use Table	○ NR	● Sat	Zoning of land (cl 2.2): R1 The development is permissible in the zone (cl. 2.3(1)) The development is consistent with the following objectives of the zone (cl. 2.3(2)): • To provide for the housing needs of the community. • To provide for a variety of housing types and densities.
Land Parcels & DP	(b) (c) (e)	**Land Title** Correct legal description and ownership Easements & Building Envelopes Open Deposited Plan (including 88b) Registered title (deferred commencement)		○ NR	● Sat	
LEP 2010 Listed item and Conservation	(a)(i) (a)(iii) (b) (c) (e)	**Heritage** Conservation Area Listed item		● NR	○ Sat	
			LEP 5.10 Heritage conservation	● NR	○ Sat	

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LEP 2010 Urban release Area	(a)(i) (b) (c) (e)	**Urban Release Area**	**LEP** 6.2 Public utility infrastructure	● NR	○ Sat	
			LEP 6.3 Development control plan	● NR	○ Sat	
Natural resource Sensitivity	(a)(i) (a)(iii) (b) (c) (e)	**Natural Resource Sensitivity**	**LEP** 7.3 Biodiversity	● NR	○ Sat	
			LEP 7.4 Vulnerable land	● NR	○ Sat	
			LEP 7.5 Riparian lands and waterways	● NR	○ Sat	
			LEP 7.6 Groundwater vulnerability	● NR	○ Sat	
Flooding (including MOFFS)	(a)(i) (a)(iii) (b) (c) (e)	**Flooding** Overland flow		● NR	○ Sat	
			LEP 5.21 Flood Planning	● NR	○ Sat	
Bushfire Prone Land	(a)(iii) (b) (c) (e)	**Bushfire**		○ NR	● Sat	The site is not mapped as bush fire prone land and a site inspection has confirmed that the site or surrounding area is not a bush fire risk. No further assessment is required.

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Environmental - Contaminated Land & PFAS	(a)(i) (b) (c) (e)	**Contaminated Land** PFAS Study Area Site observations	**SEPP (Resilience and Hazards) 2021**	○ NR	● Sat	There is no indication that the site has previously been occupied by any use that could have led to contamination of the site. Furthermore, the land is not identified on Councils register of contaminated sites.
Airport Constraints	(a)(i) (b) (c) (e)	**Airport Constraints**	**LEP** 7.11 Airspace operations	○ NR	● Sat	
			LEP 7.12 Development in areas subject to aircraft noise	○ NR	● Sat	
Assets – Sewer and Stormawater	(b) (c) (e)	**Services/Utilities** (Septic area? Health referral)) Sewer/stormwater infrastructure (Build over, encroachment, earthwork impacts) Stormwater issues – overland flow Electricity infrastructure (including setbacks to substations) (Transport/infrastructure SEPP referral)		○ NR	● Sat	

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Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	**Existing site conditions** Buildings on site Retaining walls Cut and fill Deposited fill Boundary fencing and walls Private open space Vegetation *Proximity to natural waterways Other observations		○ NR	● Sat	Site inspection carried out: 24/5/23
Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	**Off site observations** Buildings Window locations Private open space Retaining walls Cut and fill Boundary fencing and walls Vegetation *Proximity to natural waterways Other observations		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	**Traffic, access and parking** Manoeuvring Site Distance Issues Driveway grade		○ NR	● Sat	

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		Check Driveway location and grade • Side entry pit • Service lids/pits • Poles/turrets/substations • Street Trees				
	(a)(iii) (b) (c) (e)	**Context, setting and streetscape**		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	**Public Domain** Impact on street or adjoining public place Condition/Dilapidation Construction access		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	**Safety, security and crime prevention**		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	**Site and internal design**		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	**Solar impact**		○ NR	● Sat	

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	(a)(iii) (b) (c) (e)	**Visual Privacy** Private open space Boundary fencing and screening		○ NR	● Sat	
	(a)(i) (b) (c) (e)	**Noise and Vibration** Acoustic privacy conflicts Impacting nearby landuses (Rail, Road, Infrastructure SEPP referrals)		○ NR	● Sat	
	(a)(i) (b) (c) (e)	**Air and microclimate** Impacting nearby landuses (Rail, Road, Infrastructure SEPP referrals)		○ NR	● Sat	
	(a)(i) (a)(iii) (b) (c) (e)	**Earthworks and Soils** Cut and fill Stability and erosion control Stormwater quality		○ NR	● Sat	
			LEP 7.1A Earthworks	○ NR	● Sat	

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	(b) (c) (e)	**Landscaping**		● NR	○ Sat	
	(b) (c) (e)	**Waste** Construction waste management Asbestos		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	**Energy & Water**		○ NR	● Sat	
	(a)(i) (b) (c) (e)	**BASIX** *(Use assessment checklist)*	**BASIX SEPP 2004**	○ NR	● Sat	
	(b) (c) (e)	**Other hazards** Natural Technological		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	**Flora and Fauna** (on and off-site) Check for native veg requirements (R5 and RU4 Land)		○ NR	● Sat	
			Section 5AA and Part 7 of the Biodiversity Conservation Act 2016 *Test for determining whether proposed development or activity is likely to significantly affect threatened species or*	○ NR	● Sat	Section 5AA and Part 7 of the Biodiversity Conservation Act 2016 (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)

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			ecological communities, or their habitats)			There are a number of tests to determine whether the proposal triggers the NSW Biodiversity Offset Scheme under the NSW Biodiversity Conservation Act 2016 and results in the need for further assessments or offsets. 1. *Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?* No 2. *Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.* No native vegetation is proposed to be removed. 3. *Test of Significance - the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.* Given that no native vegetation is being removed and in the absence of any recorded endangered flora or fauna on the site of the proposed development, it is not anticipated that the development will significantly affect threatened species or ecological communities or their habitats.

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						Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme.
	(b) (c) (e)	**Social and economic impacts**		○ NR	● Sat	
	(b) (c) (e)	**Facilitation of Ecologically Sustainable Development**		○ NR	● Sat	
	(a)(i) (b) (c) (e)	**Other LEP Clauses**	**LEP** 2.7 Demolition requires development consent	● NR	○ Sat	
			LEP 4.3 Height of buildings	○ NR	● Sat	
			LEP 7.9 Primacy of Zone B3 Commercial Core	○ NR	● Sat	
			LEP 4.2A Erection of dwelling houses and dual occupancies on land in certain residential, rural and environmental protection zones	● NR	○ Sat	
			LEP 5.16 Subdivision of, or dwellings on, land in	● NR	○ Sat	

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			certain rural, residential or environment protection zones			
			Other Clauses	● NR	○ Sat	
	(a)(i) (b) (c) (e)	**Other EPIs**	SEPP (Transport and Infrastructure) 2021	● NR	○ Sat	
			SEPP (Precincts - Regional) 2021	● NR	○ Sat	
			Other SEPPs	● NR	○ Sat	
	(a)(ii) (b) (c) (e)	**Draft EPIs**		○ NR	● Sat	There are a number of state environmental planning policies currently subject to review, including some which have involved consultation and notification. None of these are applicable to this application.
	(a)(iii) (b) (c) (e)	**Development Control Plans**		● NR	○ Sat	See discussion below
	(a)(iiia) (e)	**Planning agreements**		● NR	○ Sat	No related planning agreement has been entered into under section 7.4.
	(d) (e)	**Submissions**		○ NR	● Sat	Nil
	(e)	**Section 68 Application made as part of DA**	*Local Government Act 1993*	● NR	○ Sat	

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	(e)	**Section 7.11 Contributions** (Local Infrastructure Contributions Plan 2019 - 2034)	*EP&A Act 1979*	● NR	○ Sat	
	(e)	**Section 7.12 Contributions** (Local Infrastructure Contributions Plan 2019 - 2034)	*EP&A Act 1979*	● NR	○ Sat	
	(e)	**Section 64 sewer** (Development Servicing Plan – Sewerage Services – July 2013)	s64 *LG Act 1993* & s306 *Water Management Act 2000*	● NR	○ Sat	
	(e)	**Section 64 stormwater** (Development Servicing Plan – Stormwater – November 2007)	s64 *LG Act 1993* & s306 *Water Management Act 2000*	● NR	○ Sat	
cl.	(a)(iv) (e)	**The Regulation – Prescribed Matters** EP&A Regulation 2021	cl.61(1) - Demolition of a building, the provisions of AS 2601 *(ensure condition included requiring compliance with standard)*	● NR	○ Sat	
			cl.61(7) - Consideration of Special Activation Precinct Master Plan	● NR	○ Sat	
			cl.64 - Require existing building to be brought into total or partial conformity with BCA *(check with Building Surveyor for development proposing the rebuilding, alteration, enlargement or extension of an existing building)*	● NR	○ Sat	
			EP&A Regulation 2021	○	●	

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				NR	Sat	
	(a)(iv) (e)	**The Regulation – Prescribed Conditions** *(ensure conditions of consent included)*	EP&A Regulation 2021	○ NR	● Sat	
	(e)	**Other regulation matters**		○ NR	● Sat	
	(e)	**Council Policies**		○ NR	● Sat	**Policy 046** - Processing Development Applications lodged by Councillors, staff and individuals of which a conflict of interest may arise, or on Council owned land. No declaration has been made that would require action under this policy.
	(e)	**Other public interest matters**		○ NR	● Sat	It is considered that this application will not have a detrimental effect on the public interest.

Development Control Plan

In accordance with Clause 4.4 of the EPA Act 1979, the subdivision application that created the subject lot was in part a concept application (DA19/0649 as amended) and included the preparation of a series of development controls that would be used to assess all future development applications on the site as long as they were generally consistent with the concept approval.

The Act states that *the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.* Based on this, the application has been assessed against the controls contained in the document titled '*Guidance Document, Concept Development Application, Proposed Residential Development, 52 Plumpton Road, Tatton (January 2023) prepared by NGH Consulting*. Part 4 of this document contains the 'Site Specific DCP Controls' that are outlined below.

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Development controls		Not Relevant	Satisfactory	Comment
Notification of a development application	The Concept Development Application (DA19/0649 was publicly exhibited by Council. Development that is consistent with the concept design parameters will not be notified. Developments within this site that do not meet the concept design parameters outlined herein, will be notified to adjoining property owners for a period of 7 days. This would be notified to immediately adjoining lots at the side and rear of the lot/s on which development is proposed.	○ NR	● Sat	
Off-street parking	Parking is to be provided in accordance with below details. Dwelling house – 1 space/dwelling as a minimum. Multi dwelling housing (dual occupancy, attached dwellings, semi-detached dwellings) – 2 spaces/dwelling as a minimum.	○ NR	● Sat	

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Site area per dwelling	The minimum area of any lot on which development is carried out is to be • Single dwellings, attached dwellings, dual occupancy, multi-dwelling housing - 300sqm. The site area per dwelling may be distributed to provide a range of lot size and/or dwelling sizes, and to respond to site conditions and context. As noted above, lots may be further subdivided, provided that 300sqm is provided per dwelling pre-subdivision.	○ NR	● Sat	
Site cover	The maximum site cover is to be: • 60 percent for single dwellings, dual occupancy and attached dwellings. • 60 percent for multi-dwelling housing. • 55 percent for Lots 32-37.	○ NR	● Sat	

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Solar access	Building design and site layout is to ensure adequate sunlight access to the internal living spaces and private open space of the proposed development. Variations can be considered where it can be demonstrated that site constraints, existing built form and good design practices limit the ability of the proposal to comply with these controls. For any dwellings on neighbouring land, that have north facing living areas, maintain 3 hours sunlight access to the windows of the living areas between 9am and 3pm in mid-winter (June 22). Variations can be considered where it can be demonstrated that reasonable development would cause non-compliance and the impacts are minimised as far as possible. Any variation referenced above should not be considered development that is inconsistent with the concept design parameters.	○ NR	● Sat	
Private open space	At least 16sqm of private open space is required per dwelling. The private open space is to be accessible to the main living area and have a minimum dimension of 3 metres. Roofing and enclosure of private open space is permitted, however at least one side is to remain open.	○ NR	● Sat	

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Front setback	Minimum front setbacks to the primary road are to be 4 metres. Minimum setbacks to the secondary road/frontage are to be 3 metres. Minimum setbacks to garages are to be 5.5 metres. In all instances, the garage shall not encroach on the front setback identified above. For Lot 32-37 the minimum front setbacks to the access road is to be 4 metres. The minimum setback to the Plumpton Road frontage is to be 10 metres. Minimum setbacks to garages are to be 5.5 metres. In all instances, the garage shall not encroach on the front setback identified above.	○ NR	● Sat	
Side and rear setbacks and building heights Objective: Building setbacks from the side and rear boundaries and building heights shall have careful regard to the impact of proposed dwellings on adjoining landowners.	Minimum setbacks to parent lot boundaries for terrace/townhouse development and multidwelling developments are to be 1.5 metres to the side and 2.5 metres to the rear.	○ NR	● Sat	
	Minimum side setbacks for all single dwellings in the R1 zone are to be 0.9 metres and 2.5 metres to the rear.	○ NR	● Sat	
	Minimum side setbacks to the wall are to be 2 metres for all single storey dwellings in the R5 zone.	○ NR	● Sat	
	Side and rear setbacks need to be increased for additional building height (for example, for two storey buildings), or on larger R5 lots.	○ NR	● Sat	

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	A maximum 8.5 metre building height from finished ground level applies to all dwellings (single, multi, etc).	○ NR	● Sat	
Garages, carports, sheds and driveways	A garage door facing a primary or secondary road is not to comprise more than 50 percent of that frontage.	○ NR	● Sat	
	The floor area of an outbuilding must not exceed 8 percent of the area of the lot. The maximum height is to be 4.8 metres.	○ NR	● Sat	
	An outbuilding shall not be located in front of the main building line. Variations may be considered for a balcony, deck, patio, pergola, terrace, or verandah.	○ NR	● Sat	
Flooding	Where affected by overland flow flooding, dwellings shall be constructed 500mm above the 100-year ARI overland flow flood level.	○ NR	● Sat	

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Earthworks	Excavation is not to exceed a maximum depth measured from ground level (existing) as follows: a) If located no more than 1m from boundary – 1.5m, and b) If located more than 1m but not more than 1.5m from any boundary – 2m, and c) If located more than 1.5m from any boundary – 3m. Any depths and/or setbacks outside of the above may only be considered where there is no unreasonable or unacceptable impact on the amenity of the adjoining properties (direct overlooking and loss of privacy, overshadowing to areas of principal private open space and living areas). Fill is not to exceed: a) 1.5m above ground level (existing), and b) Must be contained by either: (i) A retaining wall or other form of structural support that does not extend more than 1.5m from the closest external wall of the dwelling house, or (ii) An unprotected sloping embankment or batter that does not extend from the dwelling house by more than 3m, in which case the toe of the embankment or batter must be more than 1m away from a side or rear boundary. Variations to the above setbacks can be	○ *NR*	● *Sat*	

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	considered where the applicant can demonstrate that there is an acceptable impact on the amenity of the adjoining properties (privacy, overshadowing). Any variation referenced above should not be considered development that is inconsistent with the concept design parameters. Retaining walls and support for earthworks that are more than 600mm above or below ground (existing) and within 1m of the boundary or more than 1m above the ground level in another location, must take the form of a retaining wall or other form of structural support that: (a) has been certified by a professional engineer, and (b) has adequate drainage lines connected to the existing stormwater drainage system for the site, and (c) does not result in any retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion is: (i) more than 1.5m in height and within 1m from a side or rear boundary, or (ii) more than 3m in height at any other location.			
<u>Habitable windows to front elevation</u>	All dwellings must include a minimum of one habitable window to the front elevation.	○ *NR*	● *Sat*	

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Privacy	A window in a habitable room must have a privacy screen over any part of that window that is less than 1.5m above the floor level of the room in the following cases— (a) the floor level of the habitable room is 1m or more, but not more than 3.5m, above ground level (existing) and the window faces a side or rear boundary and is less than 3m from that boundary, (b) the floor level of the habitable room is more than 3.5m above ground level (existing) and the window faces a side or rear boundary and is less than 6m from that boundary, (c) the floor level of the habitable room is 1m or more, but not more than 3.5m, above ground level (existing) and the window faces a dwelling on the same lot and is less than 6m from that dwelling, (d) the floor level of the habitable room is more than 3.5m above ground level (existing) and the window faces a dwelling on the same lot and is less than 12m from that dwelling. The above parameters do not apply to— (a) a habitable room with a floor level not more than 1m above ground level (existing), or (b) a window that faces a road or public space, or (c) a bedroom window that has an area of not more than 2m2.	○ NR	● Sat	

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	The edge of a balcony, deck, patio, terrace, or verandah must have a privacy screen with a height of at least 1.5m above the floor level of a balcony, deck, patio, terrace or verandah in the following cases— (a) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 3m, above ground level (existing) and the edge faces a side or rear boundary and is less than 3m from that boundary, (b) the floor level of the balcony, deck, patio, terrace, or verandah is more than 3m above ground level (existing) and the edge faces a side or rear boundary and is less than 6m from that boundary, (c) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 2m, above ground level (existing) and the edge faces a dwelling on the same lot and is less than 6m from that dwelling, (d) the floor level of the balcony, deck, patio, terrace, or verandah is more than 2m above ground level (existing) and the edge faces a dwelling on the same lot and is less than 12m from that dwelling. The above parameters do not apply to a balcony, deck, patio, terrace, or verandah— (a) with a floor level not more than 1m above ground level (existing), or (b) that faces a road or public space, or (c) that has an area of not more than 2m2.	○ NR	● Sat	

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