

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	Northern Midlands Interim Planning Scheme 2013
Amendment	03-2020 - insert site specific qualification for 2A Saundridge Road, Cressy to allow subdivision
Permit	PLN-20-0071 - two lot subdivision and associated works at 2A Saundridge Road, Cressy
Planning authority	Northern Midlands Council
Applicant	Woolcott Surveys
Date of decision	18 December 2020

Decision

The draft amendment is rejected under section 41(b) of the *Land Use Planning and Approvals Act 1993*.

The permit is refused under section 43H(1)(d) of the *Land Use Planning and Approvals Act 1993*.

Marietta Wong
Delegate (Chair)

Peter Fischer
Delegate

Note:

References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

REASONS FOR DECISION

Background

Amendment

Amend the text provisions of 32 Particular Purpose Zone - Future Residential to:

- Delete clause 32.4.2 A1 “No subdivision”.
- Insert clause 32.4.2 A1 “No subdivision, except on CT 14961/1 in accordance with PLN-20-0071”.

Permit

Two lot subdivision and associated works at 2A Saundridge Road, Cressy (folio of the Register 14961/4).

Lot 1 contains an existing dwelling, outbuilding and property access and will have an area of approximately 2,875m² and Lot 2 will have an area of approximately 2,019m².

Site information

The land is located on the northern side of Saundridge Road, east of the intersection with Main Street, Cressy.

The lot size is 4,894m² and contains a single dwelling and associated outbuildings located on the western half of the site.

The site has frontage to Saundridge Road, which is a partly constructed local highway under the care and management of the council.

The site is zoned Particular Purpose Zone - Future Residential. Adjoining land to the west is zoned General Residential and land to the north, east and south is zoned Particular Purpose Zone - Future Residential. It is also subject to E1.0 Bushfire-Prone Area Overlay Code and sits inside the Urban Growth Boundary Overlay for Cressy.

The site is serviced by reticulated water only and lies outside the TasWater sewer service area. Electricity and telecommunications services are available.

Issues raised in representations

One representation was received during the public exhibition period. The representation raised the following issues:

- Condition 2.7 requiring payment for road improvements is not fair or reasonable having regard to the characteristics of the amendment and the subdivision.

On 19 May 2020, TasWater provided a Submission to Planning Authority Notice under section 56S of the *Water and Sewerage Industry Act 2008*. TasWater did not object to the draft amendment and had no formal comments for the Commission. TasWater also provided six conditions to be included on the permit under to section 56Q(2).

Under section 56P(1) of the *Water and Sewerage Industry Act 2008*, the TasWater submission is taken to be a representation made under subsection 43F(5).

Planning authority's response to the representations

The planning authority considered the representation and recommended:

That Council, in accordance with section 39 (2) (b) (former provisions) of the Land Use Planning & Approvals Act 1993, forward to the Tasmanian Planning Commission the following regarding the representation:

That Council does not support the recommendation to amend condition 2.7;

That any contribution should be treated as per other subdivisions within the municipality and the appropriate charges be levied accordingly; and

That condition 2.7 be retained as detailed below:

2.7 Payment in lieu of works

A payment of \$19,974 (68m of kerb = \$7,480; 136 sq. m of road construction = \$9,520; 2 x concrete driveway aprons = \$2,614) shall be made to cover the cost of future kerb and road widening works and a concrete driveway to lot 1 and 2.

Date and place of hearing

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on 25 November 2020 via Microsoft Teams.

Appearances at the hearing

Planning authority: Paul Godier, Senior Planner, Northern Midlands Council

Applicant: James Stewart, Woolcott Surveys

Consideration of the draft amendment

1. Under section 40 of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the amendment and the representations, statements and recommendations contained in the planning authority's section 39 report.
2. A hearing was convened to assist the Commission consider the issues in the representations.
3. The amendment has been initiated and certified by the Northern Midlands Council, in its capacity as planning authority, and further supported in the reports under sections 35 and 39.
4. Under section 32(1), in the opinion of the relevant decision-maker, a draft amendment:
 - (a)-(d) . . .
 - (e) must, as far as practicable, avoid potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area;
 - (ea) must not conflict with the requirements of section 300;
 - (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
5. Section 32(1)(e) is not considered relevant to the draft amendment as the land does not adjoin an adjacent municipal area.
6. Section 300 provides that:
 - (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker, practicable, consistent with the

regional land use strategy for the regional area in which is situated the land to which the scheme applies.

7. Subsections 300(2)-(5) inclusive relate to the effect of amending a local provision with respect to common provisions. These matters are not relevant, as to the draft amendment has no implications for any common provisions.
8. Under section 32(2), the provisions of section 20(2)-(9) inclusive apply to the amendment of a planning scheme in the same manner as they apply to a planning scheme.

Regional land use strategy and local strategy

9. The draft amendment must be considered with reference to the Northern Tasmania Regional Land Use Strategy June 2018 (regional strategy).
10. The planning authority in its section 39 report submitted that the draft amendment is consistent with the regional strategy, which identifies Cressy as a Rural Village. The planning authority submits the uses and developments allowable under the draft amendment are expected to have positive impacts on the use and development of the region in environmental, economic and social terms.
11. The applicant's supporting report dated 31 March 2020 (supporting report) submits that in the regional strategy Cressy falls within the Rural Villages settlement type and that the regional strategy 'provides limited direct policy recommendations with respect to this level of the settlement network due to the role of local level land use planning'.
12. In the regional strategy Rural Villages are defined as predominately residential settlements with a small often mixed use centre that provides for basic services and daily needs. It may have reticulated water, sewerage and electricity for Utility Infrastructure.
13. The supporting report also refers to the Cressy Development Plan 2012 (development plan) which identified a low demand for residential land. The supporting report reviewed subsequent census data and identified that over time the population of Cressy had remained static and two dwellings per year had occurred over the last decade.
14. The development plan shows that Cressy has an urban growth boundary and the subject site is part of a large area of land between the urban part of Cressy and surrounding rural area that is zoned Particular Purpose Zone - Future Residential.
15. The development plan states:

Historically, there appears to be little demand for housing in Cressy. The expected approval for new houses is 1 per annum. The vacant land currently zoned for residential serviced or residential reserved uses equates to in excess of 800 years supply of zoned land within Cressy. Using the theoretical layout as shown in the development plan there are 108 lots.

This is still over 100 years supply and doesn't take into account the large blocks with a single house where there is potential to cut off a further lot.
16. At the hearing, Mr Godier confirmed that the development plan is the planning authority's endorsed local strategy for Cressy but that there were no active plans for its review, nor any rezoning as result of the development plan.
17. Mr Stewart submitted at the hearing that the rationale for the draft amendment and subdivision permit was to provide an opportunity for a family member to develop a dwelling. He also provided anecdotal evidence that market-ready land zoned General Residential in Cressy is limited.

Commission's consideration

18. The Commission acknowledges that the regional strategy provides little direction in relation to land supply for settlements in the regional settlement hierarchy that are outside greater Launceston where the greatest pressure for growth exists.
19. Policies and actions that emphasise that planned expansion is expected for all settlement types are broadly relevant, for example RSN-P2 about focussing on opportunities in existing settlements and RSN-A4 about matching future supply of urban residential land with infrastructure capacity.
20. The Commission considers that although the future development of Cressy has been given strategic consideration in a development plan, there is no support for the release of residential land at this time.
21. The development plan states that Council should resist the temptation to rezone any further land in Cressy for residential use until such time as there has been a significant take up in the land already zoned for residential purposes.
22. The development plan also states that given the current low level of demand for development in Cressy the first priority for new development should be the subdivision of blocks in town with existing houses to create new lots which do not rely on the extension of any services.
23. The site is not listed in the sites suitable for development.
24. There is already supply available of General Residential and Low Density zoned land in Cressy.
25. The Commission considers that although the draft amendment is to allow for residential development within an existing urban area, there is already an oversupply of residential land in Cressy.

Planning scheme and site specific qualification

26. Both the planning authority and applicant identified that the current zoning of the site is restrictive as the Particular Purpose Zone - Future Residential has the purpose 'To reserve land for long term residential use and development'. The Local Area Objective for the zone is 'To provide land for future residential use and prevent activities which may restrict the efficient and effective supply of residential land and infrastructure'.
27. At the hearing, Mr Godier confirmed that the subject site is unable to be fully serviced due to topography. Water and stormwater can be provided to the proposed lot 2 but not sewer.
28. In the supporting report it is submitted that a site specific qualification is proposed rather than a rezoning as the long term strategic approach to the future development of Cressy will be unaffected, and only the subject site will be further developed.
29. Mr Godier was asked if the mechanism of using a site specific qualification is setting a precedent.
30. Mr Godier submitted that 'the Council still have to address each of those on their merits and I don't see this to be a precedent. It's still got the ability to initiate or not, and if in one of those circumstances it was going undermine the strategy, I'd say they'd have grounds not to initiate'.

Commission's consideration

31. The Commission considers the intent that the Particular Purpose Zone- Future Residential is intended to manage the release of land in an orderly way, so that infrastructure can be efficiently provided and land is supplied in a staged way, responding to demand.

32. For the land to be rezoned to General Residential would require full services to be capable of being connected. In this instance, it would likely require a significant part of the area zoned Particular Purpose - Future Residential for full servicing to be viably provided due to topography.
33. While the use of a site specific qualification may appear to have little strategic impact, the Commission notes that the subject site is part of a much larger area of land sharing a boundary with the General Residential zoned edge to the settlement of Cressy. There is potential for further incremental pressure over time, which would undermine the potential to develop land within the serviced reaches of Cressy.

State Policies

34. The Commission finds that no State Policies are relevant to the draft amendment.

Decision on draft amendment

35. The Commission considers that the Particular Purpose Zone - Future Residential is intended to reserve land for future residential development in response to demand and in conjunction with the planned extension of infrastructure consistent with RSN-A4.
36. The draft amendment provides for only one additional lot, but in doing so it undermines the strategic intent of the zone and local strategy for Cressy.
37. The draft amendment is rejected under section 41(b) of the *Land Use Planning and Approvals Act 1993* because it is not as far as is practicable, consistent with the regional strategy, as required under section 300(1).

Consideration of the permit

38. Under section 43H, the Commission is required to review the planning authority's decision under section 43F. Subsection 43H(d) provides that where the Commission rejects a draft amendment under subsection 41(b), the permit must be refused.

Decision on permit

39. As the draft amendment is rejected under section 41(b) of the Act, the permit is refused under section 43H(1)(d) of the *Land Use Planning and Approvals Act 1993*.