



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 277 – WEDNESDAY 15 MARCH 2023

**AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH**

MEMBERS PRESENT: Suzanne Philip (Chair), Adam Twomey, Marion Guppy, Emma Sharp and Doug Barden

APOLOGIES: Rachael Wright

LEAVE OF ABSENCE: Keith Aitken

OFFICERS PRESENT: Margaret Macintyre (Secretary), George Maly and Steven Kubasiewicz (Development Assessment Services)

COUNCIL REPRESENTATIVE: Julie Hillier

Meeting opened at 11.30 am and closed at 1.10 pm

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

The Chair, Development Consent Authority, under section 93(1) of the *Planning Act 1999*, appointed Marion Guppy who is a member in relation to the Darwin Division, to act as a member for Keith Aitken in relation to the Litchfield Division from 13 March 2023 to 22 March 2023 as Keith Aitken is prevented from performing his duties of office because of absence.

ITEM 1 **SUBDIVISION TO CREATE 179 LOTS (178 LOTS AND BALANCE PARCEL) IN TWO**
PA2023/0007 **STAGES.**

SECTION 6102 (75) ELIZABETH VALLEY ROAD, NOONAMAH, HUNDRED OF
STRANGWAYS

APPLICANT Tatam Planning Co

DAS tabled a report from CDM Smith (Environmental Consultants) and a further submission from submitter Michael Worthington who was unable to attend the meeting.

Applicant:- Cat Tatam (Tatam Planning Co), landowners Jeff and Jan Hardwick attended in person and attending via videolink Razi Malik (MLEI Consulting Engineering).

Submitters who sent their apology:- Geoff and Jean Baker, Michael Worthington and Dianne Tynan.

Submitters in attendance:- Kezia Purick.

Interested Parties in attendance:- Trisha O'Hehir.

RESOLVED
23/23

That, pursuant to section 53(b) of the *Planning Act 1999*, the Development Consent Authority alter the proposed development and consent to the proposed development as altered to develop Section 6102 (75) Elizabeth Valley Road, Noonamah, Hundred of Strangways for the purpose of a subdivision to create 100 lots subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - a subdivision for 100 lots, including a remnant parcel, that is generally in accordance with the Stage 1 of the exhibited proposal.
 - That all lots will be connected to reticulated water service and provide a minimum of 4000m² of unconstrained land and unconstrained access to a public road.

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

2. Prior to the endorsement of plans and prior to the commencement of works, a Subdivision Masterplan in accordance with Section 2.3 SUBDIVISION MASTERPLAN of the NT Subdivision Development Guidelines must be submitted to and approved by:
 - Litchfield Council;
 - Transport Civil Services Division of the Department of Infrastructure, Planning and Logistics; and
 - Power and Water Corporation;to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment report is to be prepared by a suitably qualified practicing traffic engineer in accordance with Section 4.3 TRAFFIC IMPACT ASSESSMENT/STATEMENT of the NT Subdivision Development Guidelines must be submitted to and approved by the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics and the Litchfield Council to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commencement of works, a Part 2 Stormwater Management Plan for the on-site collection of stormwater and its discharge, in accordance with the requirements of Section 7.1.2: PART 2 STORMWATER MANAGEMENT PLAN of the NT Subdivision Development Guidelines, must be submitted to and approved by Litchfield Council to the satisfaction of the consent authority.
5. Prior to the commencement of works, a Type 2 Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP should be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: das.ntg@nt.gov.au .

GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, electricity and telecommunication networks to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
8. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

9. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created
10. All works recommended by the traffic impact assessment are to be completed to the requirements of the *Litchfield Council and the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics*, to the satisfaction of the consent authority by the owner at the owners cost.
11. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle corridors and streetscaping are to be to the technical requirements of the Litchfield Council, to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
12. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
13. No temporary access for construction purposes shall be permitted from the Stuart Highway road reserve. Construction and delivery vehicles shall not be parked on the Stuart Highway road reserve.

All lots shall be connected to the reticulated power and water.

14. All works relating to this permit must be undertaken in accordance with the accepted Type 2 Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority. Should the accepted Type 2 Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CEPSC) to the satisfaction of the consent authority. The revised ESCP should be submitted for acceptance to Development Assessment Services via email: das.ntg@nt.gov.au .
15. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. At completion of works, clearance should be sought from the Department of Environment, Parks and Water Security regarding satisfactory implementation of permanent erosion and sediment control measures and site stabilisation. To arrange a clearance site inspection, email the Land Development Coordination Branch at: DevelopmentAssessment.DENR@nt.gov.au

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

16. Fire trails are to be maintained until such time as the development has been completed to the satisfaction of the Bushfires NT to the satisfaction of the consent authority
17. Before issue of titles and pursuant to section 34 of the *Land Title Act 2000*, a Caution Notice shall be lodged with the Registrar General on the parent parcel to include the following advice on all proposed lots indicated on the endorsed drawings. The Caution Notice is to state that: “The locality may be impacted by odours, noise and dust associated with existing land uses in the surrounding locality”. Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.

NOTES

1. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
2. Any new on-site wastewater management system is to be installed in accordance with the Code of Practice for Wastewater Management.
3. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>
4. All new roads, including alterations and extensions to existing roads, are required to be named under the *Place Names Act 1967*. You should immediately make application to the Place Names Committee to commence the road naming process. Contact the Place Names Unit on 8995 5333 or place.names@nt.gov.au. Further information can be found at www.placenames.nt.gov.au
5. All land in the Northern Territory is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

Management Branch of a declared weed not previously present on the land within 14 days of detection.

6. Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to weedinfo@nt.gov.au
7. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <https://ntepa.nt.gov.au/publications-and-advice/environmental-management>.
8. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.
9. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.
10. A “Works Permit” may be required from Litchfield Council before commencement of any work within the road reserve, which would include creation of any driveway crossover connecting to Council’s road network.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2022 applies to the land and the subdivision of land requires consent under clause 1.8 (When development consent is required). It is identified as Impact Assessable under clause 1.8(c)(ii) therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2016 and the Litchfield Subregional Land Use Plan 2016 which are relevant to this application), Overlay 3.2 CNV

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

(Clearing of native vegetation), Zone purpose and outcomes of Clause clauses 4.6 Zone RR (Rural Residential) and 4.7 Zone RL (Rural Living), Clause 6.3.1 (Subdivision in zone RR), Clause 6.3.2 (Lot size and configuration in zones RL, R and H and unzoned land), Clause 6.3.3 (Site characteristics for lots of 1ha or greater in zones RR, RL, R and H and unzoned land) and Clause 6.3.4 (Infrastructure for subdivisions in Zones RL, R and unzoned land) needs to be considered.

The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 6.3.1 (subdivision in zone RR) as identified below.

Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:

- (a) The purpose and administration clauses of the requirement; and
- (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found not to be in accordance with Clause 6.3.1 (Subdivision in zone RR) as the PowerWater Corporation advised that there is only a sufficient supply of reticulated water to service 100 lots, where proposed subdivision sought to create 179 lots over 2 stages. The administrative provisions of the Clause restrict the consent authority's powers to approve only those lots for which there is sufficient supply of reticulated water. This water supply capacity constraint only corresponds to Stage one of the development, which proposes to create 100 lots.

In consideration of the lack of reticulated water to service all the 179 lots the consent authority has determined that the application be altered pursuant to Section 53 (b) of the *Planning Act 1999*, to a subdivision for 100 lots, consistent with stage one of the proposed development and includes the remnant land parcel. This will ensure that each lot will be connected to the reticulated water supply as required by the Scheme.

2. Pursuant to section 51(1) (e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under Section 49 of the Act, and any other evidence or information received under section 50, in relation to the development application.

Thirteen public submission were received during exhibition of the proposed development. An addendum to a lodged submission was tabled at the meeting. One person addressed the consent authority.

In summary the public submissions objected to the development for the following reasons:

Roads

The impact of the development on the existing road network and its ability to accommodate both existing and future traffic impacts. The Transport and Civil Services Division and the Litchfield Council have requested that Traffic Impact Assessments be prepared for their consideration.

In consideration of the comments the consent authority has determined that a Traffic Impact Assessment be prepared for consideration and endorsement by both the Litchfield Council and the Transport and Civil Services Division as a condition precedent, prior to any works commencing and the plans being endorsed. The consent authority notes that the proposed internal road network hierarchy is intended to connect to the existing road network while also providing for the connection to adjoining land and removes the need to access a lot from a Major road and is not subject to any identified flood line or any seepage line.

Bushfires NT made no comment regarding the single access point to Elizabeth Valley Road. Standard conditions have been placed on the permit requiring that all lots be provided with firebreaks prior to titles being issued. Bushfires NT have also recommended that access trails on the land be maintained until the property is sold or disposed of. Conditions to this effect have been included in the permit.

Essential services

Concerns were raised regarding the supply of power and water and the lack of a reticulated sewer system. Comments were made regarding the supply of power to facilitate the onsite treatment of waste water and the level of maintenance required for such systems.

In consideration of these matters the consent authority noted the advice of the PowerWater Corporation that there is no reticulated sewer system in the locality that there is only sufficient reticulated water for 100 lots (stage 1). Power made no comment on the supply of power but noted that the applicants will be required to provide detailed design drawings to connect to the existing overhead power line and to provide a feasibility study on the distribution network.

Notes have been placed on the permit advising that all waste water treatment systems are to be installed in accordance with the Code of Practice for Wastewater Management.

In accordance with the engineering reports provided in support of the application and the comments of DEPWS, the lots to be created can accommodate on site waste water treatment provided that they are installed and managed in accordance the Code of Practice for Waste Water Management

Conditions have also been placed on the permit requiring that the applicant provide reticulated water and power to each lot to the service authority's requirements.

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

Separation distances between residential and rural land uses.

Public comments noted the lack of separation distance between the subject land and an adjoining cattle yard and its associated activities on Section 1713 Hundred of Strangways. The comments note that a separation distance of approximately 1km is required under NT EPA's land use separation distance guidelines.

The Department of Environment, Parks and Water (DEPWS) advised that some of the activities on the land may have the potential to generate dust and that adjoining land uses have the potential to impact on the proposed lots through noise and odour. DEPWS note that many of the lots fall within the buffer areas recommended by the *Northern Territory Environment Protection Authority: Recommended Land Use Separation Distances*. The recommended separation distance between the source of the noise (cattle yards) and the nearest lot to accommodate a sensitive land use should have a separation distance of up to a 1km.

In considering whether to apply separation distances the consent authority noted the expert report provided by the applicant which concluded that no malodours will affect the property and that the land had already been zoned to allow the proposed subdivision. It was also noted that no submission was made by the land owner of Section 1713 Hundred of Strangways or the operator of the cattle yards raising a concern about the proposed rural residential subdivision.

To address concerns raised, the authority has determined to place Caution Notices on all the proposed lots so that future land owners will be made aware of the potential for the development to be impacted by either dust, odour or noise from adjoining activities on Section 1713 Hundred of Strangways.

Environmental impacts

Submissions noted that half of the land is subject to a severe level of water logging or inundation for extended periods of time and that the application did not include a stormwater management plan.

The consent authority noted the advice from DEPWS that parts of the land are unconstrained and that this accords with the boundary of unconstrained land shown in plans in support of the application. All lots, with the exclusion of the remnant lot, are on the unconstrained portion of the land. The amended subdivision plan will be required to demonstrate that the relatively large remnant lot has an area of unconstrained land and appropriate access to a public road for it to be included as an allotment in the approved subdivision.

Conditions precedents have been applied to the permit requesting that a stormwater management plan be provided to, and approved by, the Litchfield Council as the relevant authority for stormwater management.

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

Amenity

Comments include that the lots are too small, should not be considered as rural and will impact on the tranquil rural life style.

The subject land is zoned RR (Rural Living) and the subdivision as altered, satisfies the minimum lot size requirements for the zone and is consistent with the rural residential subdivision requirements of the Darwin Regional Land Use Plan 2015. The authority notes that the proposed development will impact on the existing character and amenity as the development will create 100 lots where there is currently only one. However, the character and amenity will reflect the current zoning of the land, is consistent with the uses expected in the zone and the various forms of development that the zoning allows to occur on the land.

Social Infrastructure

No provision has been made to include any social infrastructure eg schools, open spaces etc.

The consent authority note that the subdivision will support the development of the Noonamah activity centre. The subject land is also readily accessible to the Stuart Highway and the range of services that are available along its length.

Affordability

Comments question the statements that this development will provide affordable land and housing for younger Territorians.

The comments were noted by the consent authority but not as a matter covered by the *Planning Act 1999* or the NTPS 2020

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

In determining the capability of the land, the consent authority took into consideration the comments of The Department of Environment Parks and Water Security (DEPWS) and the detailed engineering reports provided in support of the application that identified areas of unconstrained land. DEPWS have advised that the boundary between the constrained and unconstrained areas identified in the plan of division are consistent with their findings. No soil drainage issues were identified.

In summary the application, as altered, is on land that has been identified as unconstrained. The lots are to be connected to reticulated water. There is no reticulated waste water available and future waste water treatment facilities will need to be installed in accordance with the Code of Practice

Litchfield DCA Meeting No 277 – Wednesday 15 March 2023

for Wastewater Management. A note has been included on the development permit advising that any on-site wastewater management system is to be installed in accordance with the Code of Practice for Wastewater Management

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the consent authority must take into consideration the utilities or infrastructure provided in the area in which the land is situated and the requirements, if any, for those facilities, infrastructure or land to be provided to the developer for that purpose.

The land is zoned both RR and RL. The PowerWater Corporation have advised that there is only sufficient water to accommodate 100 lots. The subdivision as proposed seeks to create 179 lots within zone RR, other than the “remnant lot”. The authority considered that pursuant to Clause 6.3.1 (Subdivision in zone RR) it must not consent to a subdivision where each lot is not able to be connected to an available reticulated water supply.

The authority has determined to alter the application and consent to a subdivision for 100 lots only, based on the available supply of reticulated water.

5. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The proposed subdivision, as altered, is consistent with the purpose of zone RR which seeks to provide for residential lots with a semi-rural character where reticulated water is available.

The consent authority notes that the subdivision itself will not significantly impact on the existing amenity but that the resulting development of the land will change the future amenity of the locality in a manner that is consistent with the zone purpose and outcomes.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

RATIFIED AS A RECORD OF ATTENDANCE AND DETERMINATIONS MADE AT THE MEETING

SUZANNE PHILIP
Chair

23 March 2023