



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 228 – FRIDAY 12 OCTOBER 2018

**HOWARD HALL
325 WHITEWOOD ROAD
HOWARD SPRINGS**

MEMBERS PRESENT: Suzanne Philip (Chair), Wendy Smith and Christine Simpson

APOLOGIES: Keith Aitken and Bob Shewring

OFFICERS PRESENT: Poppy Zaronias (A/Secretary), Alana Mackay and Sonia Barnes
(Development Assessment Services)

COUNCIL REPRESENTATIVE: Edward Lee

Meeting opened at 10.30 am and closed at 11.30 pm

MINUTES RECORD THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE 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.

ITEM 1 **CARPORT ADDITION TO AN EXISTING SINGLE DWELLING WITH**
PA2018/0346 **REDUCED SIDE BOUNDARY SETBACK**
APPLICANT **SECTION 3038 (39) CURRAWONG DRIVE, HUNDRED OF BAGOT**
AB CONSULTING (NT) PTY LTD

Ms Annette Joseland (AB Consulting NT Pty Ltd) attended.

Ms Joseland tabled pictures of the damaged shed.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3
181/18 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Section 3038 (39) Currawong Drive, Hundred of Bagot for the purpose of a carport addition to an existing single dwelling with a reduced side boundary setback, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the Litchfield Council stormwater drainage system shall be submitted to and approved by Litchfield Council to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings numbered 2018/0346/01 and 2018/0346/04, endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of drainage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Litchfield Council, to the satisfaction of the consent authority.
5. 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.
6. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.

NOTES

1. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources.
2. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory.

The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

REASON FOR THE DECISION

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

The proposal does not comply with Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme (the Scheme) as the open carport structure shed will be setback 2.9m from the boundary, where 5m is required.

In accordance with Clause 2.5 (Exercise of discretion by the consent authority) of the Scheme, the following reasons are considered to be sufficient special circumstances to justify the granting of a variation to Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Scheme:

- The property is constrained by a large drainage easement to the rear of the property which restricts any development in that area.
- The proposal seeks to replace a cyclone damaged structure using the existing concrete slab and the 2.9m setback as previously constructed by the previous owners in 1997.
- The adjoining neighbour supports the proposal.
- The open carport addition is setback 60m from the front boundary. It will not create undue overlooking of adjoining properties and will not be clearly visible from the street.
- The proposed addition would formalise the availability of parking on-site in line with the requirement of Clause 6.5.1 (Parking Requirements) of the Scheme.

The proposed open carport structure is not expected to detract from the existing residential amenity of the locality and is consistent with the purpose of Zone RL (Rural Living).

2. Pursuant to section 51(j) of the *Planning Act*, the consent authority must take into account suitability of the land on which the development will take place.

The land is currently developed with a single dwelling and is considered capable of supporting the proposed carport structure. Additionally, the

Department of Environmental and Natural Resources did not raise any issues of concern in relation to land capability.

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

The application proposes the replacement of a cyclone damaged carport structure in the same location and is unlikely to detract from the existing amenity of the area. The open carport structure will not create undue overlooking of adjoining properties and will not be clearly visible from the street.

The proposed open carport structure is not expected to detract from the amenity of the locality and is consistent with the purpose of Zone RL (Rural Living).

ACTION: Notice of Consent and Development Permit

ITEM 2 **INTENSIVE ANIMAL HUSBANDRY (SEA CUCUMBER HATCHERY AND**
PA2018/0348 **GROW-OUT FACILITY)**
APPLICANT **SECTION 2413 (160) WILLIAM ROAD, HUNDRED OF CAVENAGH**
NORTHERN PLANNING CONSULTANTS PTY LTD

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd) and Mr Ian Fanning (Tasmanian Seafoods) attended.

A formal comment from the Environment Division, Department of Environment and Natural Resources, and a draft condition regarding an environmental management plan, was tabled by Development Assessment Services.

RESOLVED That, pursuant to section 53(a) of the *Planning Act*, the Development Consent
182/18 Authority consent to the application to develop Section 2413 (160) William Road,
Hundred of Cavanagh for the purpose of intensive animal husbandry (sea
cucumber hatchery and grow-out facility), subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into Litchfield Council's stormwater drainage system shall be submitted to and approved by Litchfield Council. The plan shall include details of site levels and Council's stormwater drainage connection point(s).
2. 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 traffic engineer with attention to the vehicular, pedestrian, cyclist and public transport issues and opportunities shall be submitted to and approved by Litchfield Council, provided that, if the Litchfield Council so agrees, a lesser document to the Council's specifications may satisfy this condition. The traffic impact assessment report is to also include swept paths for any vehicle Class TB2 or larger as defined in Austroads 94 entering and exiting the site.

The report, or similar lesser document, should identify any necessary upgrades to the surrounding street network as a result of the implications of the development to the requirements of Litchfield Council. The developer will be required to institute all required upgrade measures at no cost to Litchfield Council.

3. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP) is to be submitted to and approved by the Consent Authority on the advice of the Department of Environment and Natural Resources. The ESCP must be developed by a Certified Professional in Erosion and Sediment Control and in accordance with the Key Principals of erosion and sediment control as specified in the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase and that all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works. Information regarding erosion and sediment control and ESCP content is available at www.austieca.com.au and the NTP website: <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to: DevelopmentAssessment.DENR@nt.gov.au
4. Prior to the commencement of use a Traffic Management Plan for the construction phase of the development shall be submitted to and approved by Litchfield Council. The plan must address traffic control and haulage routes proposed for the development.
5. Before the use starts, an operational environmental management plan for the management and operation of the use must be prepared to the requirements of an independent suitably qualified professional to the satisfaction of the Director Infrastructure and Operations, Litchfield Council. When approved, the plan will be endorsed and will then form part of the permit. The use must at all times be conducted in accordance with the endorsed plan. The environmental management plan must include:
 - (i) overall environmental objectives for the operation of the use and techniques for their achievement;
 - (ii) procedures to ensure that no significant adverse environmental impacts occur as a result of the use;
 - (iii) proposed monitoring systems;
 - (iv) identification of possible risks of operational failure and response measures to be implemented;
 - (v) day to day management requirements for the use, including waste management.

GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit. The use and/or development as shown on the endorsed plans must not be altered without the further consent of the consent authority. The development must proceed in the order of stages as shown on the endorsed plan unless otherwise agreed in writing by the consent authority.
7. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Litchfield Council.

8. All works relating to this permit are to be undertaken in accordance with the approved Erosion and Sediment Control Plan (ESCP) to the requirements of the Consent Authority on the advice of the Department of Environment and Natural Resources.
9. Any developments on or adjacent to any easements on site in favour of Litchfield Council shall be carried out to the requirements of Litchfield Council.
10. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Litchfield Council.
11. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - (i) transport of materials, goods or commodities to or from the land
 - (ii) appearance of any building, works or materials
 - (iii) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - (iv) presence of vermin
12. A construction and operation biting insect management plan to be prepared which outlines the measures to be taken to minimise mosquito breeding on the farm and personal measures that staff would take to ensure they're not impacted by biting insects. The Plan should be prepared with reference to the Guidelines for Preventing Mosquito Breeding Sites associated with Aquaculture Developments in the NT prepared by Medical Entomology Centre for Disease Control, Department of Health.

NOTES:

1. Any new on-site wastewater system to be installed must be carried out by a qualified licensed Self-Certifying Plumber and must comply with the NT Code of Practice for Small On-site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent (The Code).
2. The Northern Territory Environment Protection Authority has advised that the proponent must comply with its General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*.
3. The Northern Territory Environment Protection Authority has advised that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
4. There are statutory obligations under the *Weeds Management Act* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment and Natural Resources.
5. This permit will expire if one of the following circumstances applies:

- the development and use is/are not started within two years of the date of this permit; or
- the development is not completed within four years of the date of this permit.

The consent authority may extend the periods referred to if a request is made in writing before the permit expires.

REASONS FOR THE DECISION

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

The application has been assessed against the relevant clauses of the Northern Territory Planning Scheme (the Scheme). There are no non-compliances with the Scheme.

The relevant construction and operation plans will be prepared to manage erosion and sediment control. A water monitoring program will be instituted to ensure water quality in the receiving environment is maintained. Water licenses are in place for both surface water and groundwater extraction. The preparation of an environmental management plan is a condition precedent on the development permit.

2. Pursuant to section 51(j) of the *Planning Act*, 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.

The site has been previously developed for a prawn and fish farm and the accompanying Statement of Effect has assessed the site as being suitable for the proposed use. The operation will be undertaken on land that has been cleared. Further, it is stated that during construction and operation of the facility, a robust water monitoring regime will be in place to allow early detection and management of any emerging water quality issues.

3. Pursuant to section 51(n) of the *Planning Act*, 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 applicant has included a risk assessment prepared by an environmental consultant. Potential risks include discharge of animal effluent and residue into the river system, sedimentation as a result of poor erosion and sediment controls, creation of dust and noise during the construction phase, contamination of land and groundwater through poor waste, fuel and materials handling, management and storage. The risk assessment recommends mitigation to reduce the likelihood and consequence of the risks. Conditions will be included on the permit to include the recommended risk mitigation measures. In conjunction with ongoing water monitoring and adherence to licence requirements it is considered that impacts will be minimised to an acceptable level and not result in reduced amenity.

ACTION: Notice of Consent and Development Permit

**ITEM 3
PA2018/0232
APPLICANT**

**REZONE SUBJECT LAND FROM R (RURAL) TO RL (RURAL LIVING) AND A
SUBDIVISION TO CREATE 3 LOTS
SECTION 4331 (100) MULGARA ROAD, HUNDRED OF STRANGWAYS
NORTHERN PLANNING CONSULTANTS PTY LTD**

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd) and Mr George Danicic (Lunacic Construction) attended.

Mr Cunnington tabled a letter from Mr Graeme Owen, VPS Land Assessment and Planning, responding to the advice from the Department of Environment and Natural Resources on the land suitability assessment.

**RESOLVED
183/18**

That, pursuant to section 30P(3) of the *Planning Act*, the consent authority defer consideration of the amendment proposal to rezone Lot 4331 (100) Mulgara Road, Hundred of Strangways, from Zone R (Rural) to Zone RL (Rural Living) and subdivision to create three lots, to require the applicant to provide additional information that the authority considers necessary to enable it to make a preliminary decision.

REASONS FOR DECISION

1. Pursuant to sections 30P(2)(a) of the *Planning Act*, the consent authority must take into account any planning scheme that applies to the land to which the application relates.

The application was assessed against the requirements of Clause 5.19 (Zone RL - Rural Living), Clause 11.1.1 (Minimum Lot Sizes and Requirements), Clause 11.4.1 (Site Characteristics in Subdivisions of Rural and Unzoned Land for Lots of 1ha or Greater), Clause 11.4.2 (Infrastructure in Subdivisions of Rural and Unzoned Land) and Clause 11.4.3 (Lot Size and Configuration in Subdivision of Rural and Unzoned Land) of the Northern Territory Planning Scheme (the Scheme). The consent authority was unable to determine that the requirements of the clauses had been satisfied due to contradictory information before it regarding the land suitability assessment.

Particular reference was made to the purpose of the Clause 11.4.1, which is to ensure that subdivisions of rural and unzoned land respond to the physical characteristics of the land. Sub-clause 5 of Clause 11.4.1 states that the consent authority must not consent to a subdivision unless the relevant government agencies, local government and service authorities provide formal comment to the consent authority in relation to the land suitability assessment and stormwater management plan and the possibility of storm tide flooding, riverine flooding and localised stormwater flooding of the identified 1ha of land. The broad meaning of the sub-clause had been satisfied in that formal comment was made by the Litchfield Council and the Department of Environment and Natural Resources (DENR). However, the formal comment from the DENR contended the findings of the report and suggested that insufficient evidence was provided in the land suitability assessment to confirm with a high level of confidence that at least 1ha of land unconstrained by drainage is present on all proposed lots and that access to one or more of the lots may be

impaired. The DENR indicated that an assessment during the wet season during typical rainfall periods would be necessary to verify the extent of land constrained by drainage.

The applicant tabled a letter from Mr Graeme Owen, VPS Land Assessment and Planning, responding to the formal comment from the DENR on the land suitability assessment.

To allow the consent authority to form its own opinion on the evidence to support sub-clause 5 of Clause 11.4.1 and to assess compliance with the relevant clauses of the Scheme, it decided to defer the application. The decision was made to allow adequate consideration of the information tabled by the applicant at the DCA meeting and to request additional information from the applicant to confirm the presence of 1ha of unconstrained land on each proposed lot and that access to the lots is similarly unconstrained.

ACTION: Notice of Deferral

ITEM 4 **EXCAVATION AND FILL (STOCKPILE)**
PA2018/0335 **SECTION 5402 (25) GERALD ROAD, HUNDRED OF STRANGWAYS**
APPLICANT **GEORGE THEODORAKOPOULOS**

Mr George Theodorakopoulos attended.

A letter from the Environment Division, Department of Environment and Natural Resources, providing comment on the development application was tabled by Development Assessment Services.

RESOLVED That, pursuant to section 53(a) of the *Planning Act*, the Development Consent
184/18 Authority consent to the application to develop Section 5402 (25) Gerald Road
Hundred of Strangways for the purpose of excavation and fill (stockpile), subject to
the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans, commencement of any further works and within three months of the date of this permit, an Erosion and Sediment Control Plan (ESCP) is to be submitted to and approved by the Consent Authority on the advice of the Department of Environment and Natural Resources. The ESCP must be developed by a Certified Professional in Erosion and Sediment Control and in accordance with the Key Principals of erosion and sediment control as specified in the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase and that all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works. Information regarding erosion and sediment control and ESCP content is available at www.austieca.com.au and the NTP website: <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to: DevelopmentAssessment.DENR@nt.gov.au
2. Prior to the endorsement of plans, commencement of any further works and within three months of the date of this permit, a schematic plan demonstrating the on-site collection of stormwater and its discharge into

Litchfield Council's stormwater drainage system shall be submitted to and approved by Litchfield Council, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. 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.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Litchfield Council, to the satisfaction of the consent authority.
6. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Litchfield Council drains or to any watercourse.
7. All works relating to this permit are to be undertaken in accordance with the approved Erosion and Sediment Control Plan to the requirements of the Consent Authority on the advice of the Department of Environment and Natural Resources.
8. Dust control measures must be employed throughout the construction stage of the development to the requirements of the Northern Territory Environment Protection Authority, to the satisfaction of the consent authority.
9. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - (a) transport of materials, goods or commodities to or from the land
 - (b) appearance of any building, works or materials
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or
 - (d) presence of vermin.

NOTES:

1. The Northern Territory Environment Protection Authority advised that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
2. There are statutory obligations under the *Weeds Management Act* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment and Natural Resources.

REASONS FOR THE DECISION

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

The application was assessed against the requirements of Clause 6.16 (Excavation and Fill) of the Northern Territory Planning Scheme (the Scheme). To ensure compliance with Clause 6.16, condition precedents have been included in the development permit requiring the preparation and submission of an Erosion and Sediment Control Plan and a Stormwater Management Plan. The plans are to be prepared and approved in accordance with the requirements of the relevant authority and to the satisfaction of the consent authority, prior to any further works commencing on site and prior to the endorsement of plans.

Due to the retrospective nature of the application, a timeframe of three months has been given to achieve clearance of the conditions precedent prior to the onset of the 2018/19 wet season and to ensure timely compliance with the relevant requirements of the Scheme, Litchfield Council and the Department of Environment and Natural Resources.

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

One submission was received and raised concerns relating to dust, weeds, changes to drainage along the boundary of the site causing an increase in water inundation.

The imposition of the condition precedents and the implementation of an approved Erosion and Sediment Control Plan and a Stormwater Management Plan will identify and address the concerns raised by the submitter.

3. Pursuant to Section 51(n) of the *Planning Act*, 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 service authorities did not raise any issues with respect to the capacity of the land to support the proposed fill and therefore the land is considered capable of supporting the proposed use.

The implementation of approved erosion and sediment control measures and appropriate stormwater management and drainage measures are considered appropriate to mitigate the impacts on existing and adjoining land.

ACTION: Notice of Consent and Determination Permit

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

SUZANNE PHILIP

Chair

22 October 2018