

DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 195 – FRIDAY 12 FEBRUARY 2016

WHITEWOOD HALL
325 WHITEWOOD ROAD
HOWARD SPRINGS

MEMBERS PRESENT: Denis Burke (Chairman), Bob Shewring, Keith Aitken and Michael Bowman

APOLOGIES: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Steven Kubasiewicz, Dawn Parkes and Roxanne Willing (Development Assessment Services)

COUNCIL REPRESENTATIVE: Edward Li (Engineer)

Meeting opened at 10.00 pm and closed at 12.45 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 **ALTERATIONS AND EXTENSIONS TO EXISTING PLANT NURSERY INCLUDING**
PA2015/0863 **TWO STOREY OFFICE, SHED AND AMENITIES**
SECTION 4975 (100) THORAK ROAD, HUNDRED OF BAGOT
APPLICANT **ASHFORD GROUP ARCHITECTS**

Mr Randal Ashford (Ashford Group Architects) attended.

RESOLVED That, pursuant to section 53(a) of the *Planning Act*, the Development Consent
11/16 Authority consent to the application to develop Section 4975 (100) Thorak Road,
Hundred of Bagot for the purpose of alterations and extensions to existing plant
nursery including two storey office, shed and amenities, 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 the Litchfield Council stormwater drainage system shall be submitted to and approved by Litchfield Council, to the satisfaction of the consent authority.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. 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.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Litchfield Council, to the satisfaction of the consent authority.
6. Before the use of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
7. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

8. The office approved by this permit must remain ancillary to the existing approved use of the land.
9. 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 Department of Land Resource Management.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
3. 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.
4. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

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 subject site is zoned R (Rural) and a plant nursery is a permitted use within this zone. The existing ancillary uses on the subject site all have the appropriate approvals and are considered to accord with the purpose of the zone.

The proposed alterations and extensions have been assessed against the relevant provisions of the NT Planning Scheme, the Litchfield Planning Concepts and Land Use Objectives 2002 and the Darwin Regional Land Use Plan 2015 and were found to be fully compliant.

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.

There is no reason to suggest that the land is not capable of supporting the proposed alterations and extensions. The Department of Land Resources Management did not raise any concerns in relation to land capability.

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 proposal is likely to have a positive impact on the existing and future amenity of the area through improved facilities and aesthetic appearance.

4. A condition precedent requiring submission of a stormwater drainage plan has been included at the request of the Litchfield Council who are the responsible agency for the management of stormwater in the Litchfield Shire.

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2015/0897
APPLICANT

SUBDIVISION TO CREATE 27 LOTS
SECTION 3425 (940) STUART HIGHWAY, HUNDRED OF STRANGWAYS
EARL JAMES AND ASSOCIATES

Mr Kevin Dodd (Earl James and Associates) attended.

Submitter Mr Gerry Wood MLA attended and tabled three photographs showing the Stuart Highway with industrial lots backing on to the highway.

RESOLVED
12/16

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority consent to the application to develop Section 3425 (940) Stuart Highway, Hundred of Strangways for the purpose of subdivision to create 27 lots, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, details of the chemical loads, including salts, phosphates and nitrates potentially introduced into the groundwater system through effluent disposal must be submitted for assessment by the Department of Land Resource Management, to the satisfaction of the consent authority.
2. Prior to the endorsement of plans and prior to the commencement of works, details of the proposed effluent disposal system(s) must be submitted to and approved by the Department of Health, to the satisfaction of DLRM and the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works, a Traffic Impact Report must be submitted to and approved by the Department of Transport and Litchfield Council, to the satisfaction of consent authority. The Report is to be in accordance with the Austroads Guide to Traffic Management Part 12: Traffic Impacts of Development and must detail the development's traffic generation, traffic operation impact and recommended measures required to accommodate and/or mitigate the traffic impacts of the development, including construction traffic. The report must also demonstrate how vehicles over 25m long will be prevented from utilising the proposed intersection.
4. 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 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.
5. Prior to the commencement of works (including site preparation works), a Construction Traffic Management Plan (detailing all appropriate site management measures, including construction site access, proposed haulage routes, vehicle types, protection of existing assets, protection of public access and a risk assessment) is to be submitted to and approved by the Department of Transport and Litchfield Council, to the satisfaction of the consent authority.
6. 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 DLRM. The ESCP is to be developed by a suitably qualified and experienced professional in erosion and sediment control planning, and in accordance with the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The plan should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase. Information regarding ESCP content is available at www.austieca.com.au.
7. Prior to the commencement of works, a Road Safety Audit, prepared by a suitably certified traffic auditor is to be submitted to and approved by Litchfield Council, to the satisfaction of the consent authority.

GENERAL CONDITIONS

8. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
9. All works relating to this permit are to be undertaken in accordance with the endorsed ESCP to the requirements of the consent authority, upon the advice of the Department of Land Resource Management.
10. All works relating to this permit are to be undertaken in accordance with the endorsed Traffic Impact Report and Construction Traffic Management Plan to

the requirements of the consent authority, upon the advice of the Department of Transport and Litchfield Council.

11. Before issue of titles and pursuant to section 34 of the *Land Title Act*, A Caution Notice shall be lodged with the Register General on the parent parcel to include the following advice on all proposed lots indicated on the endorsed drawings. The Caution Notice is to advise the future owners of the land on the potential for the use of certain types of effluent disposal systems to be prohibited on the lots approved by this subdivision. The wording for the notice must be submitted to and approved by the consent authority on the advice of the Department of Land Resource Management and the Department of Health. Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.
12. 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.
13. 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.
14. 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.
15. The owner of the land must enter into agreements with the relevant authorities for the provision of reticulated water supply, drainage, sewerage, electricity facilities and telecommunication networks to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
16. The kerb crossovers and driveways to each lot approved by this permit are to meet the technical standards of Litchfield Council, to the satisfaction of the consent authority.
17. Where unfenced, the Stuart Highway frontage is to be appropriately fenced in accordance with the Department of Transport's standards and requirements to the satisfaction to the consent authority.
18. All proposed work (including the provision or connection of services) within, or impacting upon the Stuart Highway road reserve shall be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of the Department of Transport. Design documents must be submitted to the Transport Infrastructure Planning Division of the Department of Transport for Road Agency Approval, irrespective of approvals granted by other Authorities. No works within, or impacting upon NT Government road reserves are to commence prior to gaining Road Agency Approval.

19. Street lighting shall be provided at the intersection in accordance with the current version of AS/NZS 1158 Lighting for roads and public spaces (all parts) and the Department of Transport's technical specifications, to the requirements of the Department of Transport and Litchfield Council, to the satisfaction of the consent authority.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. A "Permit to Work Within a Road Reserve" is required to be obtained from the Department of Infrastructure prior to the commencement of any works within the Stuart Highway road reserve.
3. All new roads, including alterations and extensions to existing roads, are required to be named under the Place Names Act. 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
4. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 8995 5354. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
5. 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 Land Resource Management.
6. The applicant is advised to engage a building certifier, within the meaning of the *Building Act*, as to whether the existing buildings comply with the *Building Act* and associated Regulations.
7. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
 - (a) so as not to create sun or headlight reflection to motorists; and
 - (b) be located entirely (including foundations and aerially) within the subject lot.
8. The Department of Transport advise that access shall not be permitted to any of the proposed individual lots from the Stuart Highway road reserve.
9. The Power Network Engineering Section PWC advise that the internal electrical installation to Lot 9 and Lots 14/15, to ensure that the voltage drop would not

exceed the acceptable limit, is expensive (ten thousands of dollars more compared to standard lot) to prospective land owner.

10. Further information about the new Telstra policy and what it means for developers is available at www.telstra.com.au/smart-community
11. 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.
12. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

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 proposal accords with the provisions of Specific Use Zone Litchfield No.17 and reflects a general compliance with the relevant clauses of the NT Planning Scheme.

Sub-clause 2(f) of Clause 11.3.2 (Infrastructure in Industrial Subdivisions) requires the application to demonstrate that soils are suitable for the on-site absorption of effluent without detriment to the environment, and in particular to ground and surface waters. DLRM have raised concern with possible contamination and therefore a condition precedent has been included on the permit for this issue to be resolved prior to the endorsement of plans.

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 public submission was received and highlighted the prominent position of the subject site and made a number of suggestions on how the proposal could address its sighting next to rural living land and its visibility from a major tourist highway. DAS has recommended the suggestions be considered by the applicant and discussed at the DCA hearing to determine if any changes can be implemented or if any conditions need to be applied to the development permit.

3. 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 Department of Land Resource Management has raised concern relating to the risk that increased effluent load poses to the groundwater supply of surrounding residences. Resolution of this concern is required to avoid the proposal having a negative impact on the groundwater system which supports the water supply to rural residents in the Bees Creek area.

4. 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 proposed subdivision is consistent with the provisions of Specific Use Zone Litchfield No. 17 and compliance with the recommended conditions relating to land capability and servicing will ensure that the proposal does not have any adverse impact on the exiting or future amenity of the area.

5. A number of conditions precedent have been applied to the development permit at the request of service authorities to address matters under their control.

ACTION: Notice of Consent and Development Permit

**ITEM 3
PA2015/0791
APPLICANT**

**HELIPAD ADDITION TO AN EXISTING SINGLE DWELLING
PORTION 2921 (1093) MCMILLANS ROAD, HUNDRED OF BAGOT
JUNE D'ROZARIO & ASSOCIATES PTY LTD**

Ms June D'Rozario (June D'Rozario & Associates) and Mr Grant Faris (landowner) attended.

Ms D'Rozario tabled:-

a copy of two supreme court decisions:-

- a) Warringah Shire Council v Raffles – Helicopter for private transport; and
- b) Paramatta City Council v Amalgamated Television Services – Helipad used in connection with television station;

A response to issues raised in submissions and DAS report to the authority.

Submitters in attendance:-Mr Gerry Wood MLA, Mr Herman Nhyhuis, Mr John Bonnin, Ms Kate Pickering, Mr Ray & Mrs Carol Penglase, Mr Alan Mitchell and Ms Monica Stewart.

**RESOLVED
13/16**

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Portion 2921 (1093) McMillans Road, Hundred of Bagot for the purpose of a helipad addition to an

existing single dwelling and for the storage and use of helicopters for the following reasons:

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 Authority considers that the use is not ancillary to the primary use of the land for residential purposes and has the potential to significantly impact on the amenity of adjoining land owners /occupiers. The authority considers that the use is consistent with the definition of development and requires assessment as a discretionary land use.

The subject site is zoned RL (Rural Living) and the primary purpose of this zone is to provide for low density rural living and a range of rural land uses including agriculture and horticulture. The primary use of the land is for rural living purposes. The proposed development includes the storage on site of up to three helicopters within an existing shed and a helipad to accommodate a limited number of flights a month. The proposed development is not intended to facilitate the development of the land for rural land uses associated with the subject land but to allow the land owner to utilise the subject land to commute to alternative locations. The authority considers that the use is inconsistent with the primary purpose of the zone to provide for low density rural living and a range of rural land uses as the use has the potential to significantly impact on the amenity enjoyed by rural living activities on a parcel that is less than 2ha in size and does not allow for adequate separation distances to be achieved between adjoining dwellings and the helipad.

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.

In total 24 public submissions of which 9 raised concerns with the impact that the proposed use would have on the amenity of the area, 2 were neutral. The authority notes that two objections to the proposal were received from land owners who abut the land to the east and west and potentially the most likely to be significantly affected by the proposed development. One of these objections expressed concern regarding the impact the use will have on them by creating noise, dust, fumes and debris. The second landowner did not object to the private use of the helipad but would be concerned if the use was commercial or business purposes. The authority considered that the application details failed to effectively demonstrate how the impacts on amenity, including noise was to be mitigated.

The authority also took into consideration the advice forwarded in one of the submissions in the document titled "Planning Requirements for Heliports and Helicopter landing sites" published by the Victorian

Government Department of Planning and Community Development, Melbourne, December 2012. The document notes no permit is required to use land for a helicopter landing site where the landing point is located more than 500meters from a building used for sensitive uses that is not associated with the helicopters operations, such as adjoining dwellings. The separation distances of approximately 70metres to adjoining residential land uses is considered to be insufficient to mitigate impacts on amenity.

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.

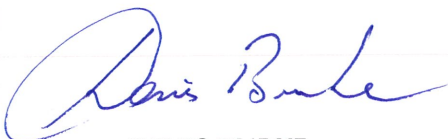
The authority notes that the nearest dwelling is approximately 70 metres and in consideration of the "Planning Requirements for Heliports and Helicopter landing sites" the lack of separation distances between the landing site and adjoining dwellings the proposed use has the potential to significantly impact on the existing and future amenity of the locality through increased noise, air traffic movements, dust and fumes.

4. Pursuant to section 51(p) of the *Planning Act*, the consent authority must take into consideration the public interest, including (if relevant) how the following matters are provided for in the application:
 - (i) community safety through crime prevention principles in design;
 - (ii) water safety; and
 - (iii) access for persons with disabilities.

The authority noted the comments from the Aerodrome Safety and Standards manager at the Darwin International airport (DIA), that DIA has no objection to the proposal however would be concerned if there were any effect on air traffic in and out of Darwin Airport. In isolation the proposed development has minimal potential to impact on air traffic using Darwin Airport. The authority considers that the NT Planning Scheme does not provide sufficient guidance to support development of this kind. The authority is concerned that if developments of this kind were to be assessed as ancillary to the primary rural living land use then similar forms of development could occur without management or assessment of the impacts on adjoining land owners/occupiers and the operations of the DIA.

ACTION: Notice of Refusal

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



DENIS BURKE
Chairman

19/2/16

