



## **DEVELOPMENT CONSENT AUTHORITY**

### **LITCHFIELD DIVISION**

### **MINUTES**

**MEETING No. 224 – FRIDAY 15 JUNE 2018**

**WHITEWOOD HALL  
325 WHITEWOOD ROAD  
HOWARD SPRINGS**

- MEMBERS PRESENT:** Suzanne Philip (Chair), Keith Aitken, Bob Shewring, Wendy Smith and Christine Simpson
- APOLOGIES:** Nil
- OFFICERS PRESENT:** Margaret Macintyre (Secretary), Fiona Ray, Sally Graetz and Sonia Barnes (Development Assessment Services) and Mr Simon Cruickshank (A/Executive Director Water Resources DENR)
- COUNCIL REPRESENTATIVE:** Natasha McAllister (Items 1-4) and Edward Li (Items 5-7)

**Meeting opened at 10.30 am and closed at 2:30 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**                    **VARIATION OF DP18/0095**  
**PA2017/0614**        **SECTION 6533 (1) HAVELOCK STREET, HUNDRED OF BAGOT**  
**APPLICANT**        **DKJ PROJECTS ARCHITECTURE PTY LTD**

Mr Adam Walker (DKJ Projects Architecture Pty Ltd), Mr Bernie O'Connell (General Manager Gwelo) and Mr David King-Jones attended.

Mr Walker tabled copies of five amended plans – Revision D, which were included in the agenda material at Bookmark D.

**RESOLVED**            That pursuant to section 57(3) of the *Planning Act*, the Development Consent  
**95/18**                    Authority consent to the application to vary condition precedent 1 of DP18/0095 to allow a setback of 2.3m between buildings and 5m at the primary street frontage.

**CONDITION 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 two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a. a setback of 2.3m between the buildings and 5m at the closest point to the primary street frontage;
  - b. traffic movements including the provision of swept paths, line marking, directional signage and widening of turning bay, to the satisfaction of Litchfield Council; and
  - c. compliance with all other relevant provisions of the NT Planning Scheme including Clause 6.5.1 (Parking Requirements); 6.5.3 (Parking Layout); Clause 7.1 (Residential Density and Height Limitations); Clause 7.5 (Private Open Space); Clause 7.7 (Landscaping for Multiple Dwellings, Hostels and Supporting Accommodation); and Clause 7.8 (Building design for Multiple Dwellings, Hostels and Supporting Accommodation).

In all other respects Development Permit DP18/0095 remains unchanged.

**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 proposed setback between the buildings and consequential reduced primary street setback does not alter a measurable aspect of the approved development by a margin greater than 5% and would be unlikely to result in an adverse impact on the amenity of adjoining or nearby land.

A variation to allow the corner of the building to be setback 5m from the primary street boundary is considered appropriate given the irregular shape of the parcel; the restrictions of two road frontages at the property; the short length of the encroachment on the setback as the boundary tapers to the corner; and the affected encroachment only impacting on 25% of the overall the boundary of the property. Further details on the proposed plans regarding traffic signage, line marking, swept paths and the widening of the turning bay have been included in the condition precedent in response to Litchfield Council concerns.

It is also noted that the building is single storey and the boundary will be fenced with tubular fencing and landscaped to screen the building which in effect will be consistent with the purpose of the clause.

A variation to allow the buildings to be setback 2.3m where 3m is required is considered appropriate given the irregular shape of the parcel and the restrictions of two road frontages at the property. It is also noted that the building is single storey and the boundary will be fenced with tubular fencing and landscaped to screen the building which in effect will be consistent with the purpose of the clause. A distance of 1.15m on either side of the fence is appropriate for access and landscaping works. The proposed deviation is also more compliant than the original proposal and no submissions or concerns were raised with regard to the original proposal.

**ACTION:** Variation to Permit

**ITEM 2  
PA2018/0177  
APPLICANT**

**CLEARING OF NATIVE VEGETATION  
SECTION 2890 (285) PEACOCK ROAD, HUNDRED OF CAVENAGH  
MASTERPLAN NT**

Mr Jack Priestley (Masterplan NT) and Mr Steve Criddle (Berry Creek Packing Company Pty Ltd - landowner) attended.

Mr Priestley tabled an email from DENR.

**RESOLVED  
96/18**

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Section 2890 (285) Peacock Road, Hundred of Cavenagh for the purpose of clearing of native vegetation to enable the applicant to obtain a water licence for the proposed new area under mango cultivation.

#### **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 policy and assessment framework for planning and development across the Northern Territory makes explicit reference to the protection and sustainable management of water resources. The administration of the Scheme is to contribute to the sustainable use and development of land and water resources so that the use and development of land is consistent with the principles of sustainable development, avoids

pollution and minimises degradation of the environment or over commitment of water resources.

Further, Northern Territory Planning Scheme Clause 10.3(g) Clearing Native Vegetation - Performance Criteria, requires an application for land clearing to consider whether there is sufficient water for the intended use. Advice received from the Department of Environment and Natural Resources (DENR) is that Section 2890 Hundred of Cavenagh overlies the South Alligator Resource (Darwin River Zone) and it is considered to be over-allocated. Comment from DENR is that it is unlikely a further licence would be granted. In the absence of a water licence for the proposed new planting, the clearing of native vegetation is not supported.

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

Submitters are concerned with chemical spraying undertaken by the Berry Creek Packing Company (BCPC) and that the potential impacts on neighbours and the surrounding environment are not considered by the land owner.

Also of concern is the level of clearing already undertaken on the site, as buffers have not been retained along boundaries. The submitters request that areas of well-established native vegetation islands be retained and native buffers regenerated at the boundaries. In providing comment on the application to clear native vegetation the Department of Environment and Natural Resources has recommended that if the application is approved native vegetation buffer zones should be retained.

**ACTION:** Advice to Applicant

**RESOLVED  
97/18**

That pursuant to section 86 of the *Planning Act*, the Authority delegates to the Chair, or in the Chair's absence any one of the other members of the Litchfield Division the power under section 53 of the Act, to determine the application to develop Section 2890 (285) Peacock Road, Hundred of Cavenagh for the purpose of clearing of native vegetation subject to the submission of evidence that a water licence for the proposed new area under mango cultivation has been obtained from the Department of Environment and Natural Resources and further subject to conditions as determined by the delegate.

**ITEM 3  
PA2018/0162  
APPLICANT**

**SUBDIVISION TO CREATE TWO LOTS  
LOT 24 (35) ANDREWS ROAD, HUNDRED OF STRANGWAYS  
NEVILLE JEFFREY**

Mr Neville and Mrs Amanda Jeffrey and Mr Graeme Owen (VPS Land Assessment and Planning) attended.

Litchfield Council tabled a map showing records of waterlogged areas on the site.

**RESOLVED  
98/18**

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Lot 24 (35) Andrews Road, Hundred of Strangways for the purpose of a subdivision to create two lots to enable the authority and the Department of Environment and Natural Resources to assess the additional information and amended plans submitted by the applicant to address the non-compliances identified in the technical assessment of the application, specifically the 1ha of unconstrained land on each of the proposed lots.

**REASONS FOR THE DECISION**

Notwithstanding the recommendation to refuse the application based on the groundwater resource issue. The applicant requested deferral to address the land capability issues identified in the assessment.

**ACTION:** Advice to Applicant

**RESOLVED  
99/18**

That pursuant to section 86 of the *Planning Act*, the Authority delegates to the Chair, or in the Chair's absence any one of the other members of the Litchfield Division the power under section 53 of the Act, to determine the application to develop Lot 24 (35) Andrews Road, Hundred of Strangways for the purpose of subdivision to create two lots for the following reasons:

**REASONS FOR THE DECISION**

Notwithstanding the recommendation to refuse the application based on the groundwater resource issue. The applicant requested deferral to address the land capability issues identified in the assessment.

**ACTION:** Advice to Applicant

**ITEM 4  
PA2018/0168  
APPLICANT**

**SUBDIVISION TO CREATE TWO LOTS  
SECTION 3939 (105) POWER ROAD, HUNDRED OF STRANGWAYS  
TFW NOMINEES PTY LTD**

Mr Jamie and Mrs Angela Graham (nee Younger) attended.

**RESOLVED  
100/18**

That, the Development Consent Authority vary the requirements of Clause 11.4.3 (Lot Size and Configuration in Subdivision of Rural and Unzoned Land) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Section 3939 (105) Power Road, Hundred of Strangways for the purpose of a subdivision to create two lots, subject to the following conditions:

**GENERAL CONDITIONS**

1. The works carried out under this permit shall be in accordance with the drawing numbers 2018/0168/01 endorsed as forming part of this permit.
2. 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.

3. 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 on the plan of subdivision submitted for approval by the Surveyor General.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of drainage, 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.
5. 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 Litchfield Council to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
6. 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.
7. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act*, pay a monetary contribution to Litchfield Council for the upgrade of local infrastructure, in accordance with its Development Contribution Plan.
8. Appropriate soil erosion, sediment and dust control measures must be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be suitably stabilised against erosion at completion of works, to the satisfaction of the Consent Authority.

**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 Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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. 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.
4. 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. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.

5. 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](mailto: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.

## 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 Northern Territory Planning Scheme (NTPS) applies to the land.

Clause 11.1.1 (Minimum Lot Sizes and Requirements) requires that lots in Zone RL (Rural Living) be a minimum size of 2ha with a minimum 1ha of unconstrained land. The application demonstrates compliance with the requirements of this clause.

The proposal was found to be consistent with the requirements of clause 11.4.1 (Site Characteristics in Subdivision of Rural and Unzoned Land for Lots of 1 ha or Greater) including subclause 2(a) and (b) which required submission of a Land Suitability Assessment (LSA) addressing the NT Land Suitability Guidelines and Stormwater Management Plan (SMP). The application was accompanied by a land suitability assessment prepared by Greencap. The assessment identified that both proposed lots comprise more than 1ha of unconstrained land that is accessible by public road. The Department of Environment and Natural Resources (DENR) indicated in its comments dated 15 May 2018, that 'more than 1ha of land unconstrained by drainage' was present on both proposed lots.

The stormwater management plan submitted with the application has been circulated to Litchfield Council with no concerns identified and no further stormwater management information/plans required. As such, the provisions outlined in Clause 11.4.1 are considered to be addressed.

Clause 11.4.2 (Infrastructure in Subdivisions of Rural and Unzoned Land) sub-clause 2 (d) requires 'where no reticulated water is available, demonstrate that an adequate supply of groundwater is available for domestic purposes'.

Power and Water Corporation has confirmed that reticulated water is unavailable to the site. The applicant has identified the existence of two bores; one in each of the proposed lots to service the subdivision.

DENR advised, in its comments dated 15 May 2018 that, despite the presence of existing bores, the proposed subdivision will create an additional property which will invoke a statutory right under the *Water Act* to access the underlying West Management Zone of the Howard groundwater resource. It further indicated that, according to the (Draft) Howard Water Allocation Plan, existing groundwater use in this zone is estimated at 209% of the consumptive pool provided under the NT Water Allocation Framework (i.e. exceeds total water available for

extraction by 109% which *'undermines the security of groundwater supply to existing users as well as impacting on the environment, particularly after periods of poor wet season rain when recharge is diminished. Further subdivision will exacerbate the impact on existing users and the environment.'*

Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Northern Territory Planning Scheme the Authority may consent to a development that does not meet the standard set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The authority considers that the circumstances for making a determination on this application are unique. Although the proposed subdivision will create an additional lot which will invoke a statutory right under the *Water Act* to access the underlying groundwater resource, there are two approved bores present on site, one in each of the proposed lots to service the subdivision.

One of the bores qualifies for an agricultural extraction licence (commercial bore) to maintain the established mango orchard. In all likelihood the authority considers the impact on the water resource will be reduced given the subject site is zoned RL (Rural Living), intended for residential purposes living and the use of bores for stock and domestic purposes is considered less likely to impact on the underlying groundwater resource than the approved bore use for agricultural purposes.

Subclause 3(f) of Clause 11.4.2 relates to road design within subdivisions but includes a requirement to 'avoid' battle-axe strips unless 'justified'. The subdivision includes a battle-axe strip that provides access for Lot B. The battle-axe strip complies in full with the specified width and length requirement including a strip width not exceeding 10 and length of less than 250m as required.

In the absence of defined criteria, the authority considers the existence of other battle-axe allotments within close proximity, that the design achieves the performance criteria specified for the battle-axe strip and that no service authorities have specifically objected to this part of the design, as adequate justification.

Clause 11.4.3 (Lot Size and Configuration in Subdivision of Rural and Unzoned Land). The purpose of this clause is to ensure subdivisions of rural and unzoned land have lots that are of a size and configuration suited for the intended purpose; have lots that are of a size consistent with the topographical constraints of the land (that may dictate that lots are of an area in excess of the specified minimum); and do not impose unsustainable demands on groundwater or unreasonably degrade the environment.

While advice received from DENR indicated that *'further subdivision will exacerbate the impact on existing users and the environment'*. The authority could not be persuaded that an approval would result in an adverse impact on the underlying groundwater resource given there

are two approved bores present on site to service each of the proposed lots.

Subclause 2(c) which relates to the depth to width ratio for subdivision design. It requires that subdivision design ensure that lots have a depth to width ratio not exceeding 4:1. Lot A achieves this requirement with a depth of 150m and width of 170m. Lot B includes a battle-axe strip and does not comply. The authority considers a variation to subclause 2(c) acceptable given the existing shape of Section 3939 is quite unusual. In addition to the irregularity of Section 3939, the location of constrained land necessitating the battle-axe and general level of compliance otherwise achieved with the clause exhibits special circumstances to justify a variation to this requirement.

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.

Stormwater management conditions have been included as conditions of consent to reflect advice from Litchfield Council in relation to stormwater drainage on site.

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 advice from the Department of Environment and Natural Resources indicates that further development will impact on the sustainability of the underlying groundwater resources and acknowledges that a determination to approve this application will create an additional lot that invokes a right to access the underlying groundwater resources that cannot otherwise be controlled. However, the authority considers the circumstances for making a determination in this instance are unique given the presence of two approved bores on site, one in each of the proposed lots intended to service the subdivision.

**ACTION:** Notice of Consent and Development Permit

**ITEM 5**  
**PA2018/0061**  
**APPLICANT**

**SUBDIVISION TO CREATE SEVEN LOTS WITHIN AN INTERIM  
DEVELOPMENT CONTROL ORDER AREA (IDCO NO. 22)  
SECTION 1548 (880) LIVINGSTONE ROAD, HUNDRED OF CAVENAGH  
NORTHERN PLANNING CONSULTANTS PTY LTD**

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd), Mr Andy Armstrong and Mr Scott Lawton (on behalf of landowners) attended.

Mr Cunnington tabled:-  
Legal Advice from Paul Maher, Solicitors and  
Information on water tank requirement, sizes and costs

**RESOLVED  
101/18**

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Section 1548 (880) Livingstone Road, Hundred of Cavenagh for the purpose of a subdivision for seven lots for the following reasons:

**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 Northern Territory Planning Scheme is the relevant planning scheme.

Clause 4.1 (b) of the Scheme requires the administration of the Scheme to “*contribute to the sustainable use and development of land and water resources so that the use and development of land is consistent with the principles of sustainable development and avoids pollution and minimises degradation of the environment or over commitment of water resources*”.

The Authority received advice from the Department of Environment and Natural Resources that the Berry Springs Groundwater System is over-allocated. Increasing extraction is not sustainable and will compromise supply to existing users. Furthermore, DENR advises that any increase in extraction will unreasonably impact on the environment with particular detriment on the water dependent ecosystems of the Berry Springs complex, Parson Spring and Twin Farm Springs. The applicant did not contest that advice.

The Authority, specifically in relation to subdivision, also considered Clause 11.4.3 Lot size and configuration in subdivisions of rural and unzoned land which has the purpose to ensure at 11.4.3(1)(c) that proposed subdivisions do not impose unsustainable demands on groundwater or unreasonably degrade the environment.

As extraction of groundwater for domestic purposes is a statutory right granted under Section 14 of the *Water Act*, the Authority does not have power to prevent the future construction and use of bores for the purposes set out in Section 14 on the proposed lots. The Authority considers that refusal of the application is necessary as it will result in unsustainable demands on groundwater resources, reduced reliability of supply to existing users and cause unreasonable degradation of the environment. The Authority considered the Advice of Mr Maher tendered by the Applicant and, in particular, the opinion in relation to Section 70 of the *Water Act* which the Applicant contends ameliorates the potential effect of Section 14 on groundwater. Section 70 empowers the Controller under the *Water Act* to, inter alia, close, restrict the amount of water taken from, or discontinue the use of a bore. The Authority further noted the response of DENR that Section 70 is a responsive tool only to be invoked when taking of groundwater exceeds what would otherwise be regarded as reasonable. While the Authority has broad powers to impose conditions on development permits under Sections 53 and 55 of the *Planning Act*, it does not, in the absence of express provision, have power to prevent the exercise

of the statutory rights of owners or occupiers of land granted under other legislation, in particular, under Section 14 of the Water Act.

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

One submission in support of the proposal considers that it will provide an opportunity to trial the feasibility of rainwater harvest and storage as a reliable year round water supply option for rural residents. The submission does also note that information could be sourced from residents currently utilising tank water.

It is acknowledged that there would be benefit in gaining a comprehensive understanding of the potential and requirements for households to utilise rainwater harvest and storage. However it is considered that there are alternative means of gaining this information such as undertaking a longitudinal study with clear research and assessment parameters. It would also be preferable that such a study be undertaken in areas that do not have groundwater constraints, in the event that rainwater harvest was not found to be a suitable option. The applicant's proposal that each lot will require a dwelling and shed with 600m<sup>2</sup> roof space to collect rainwater and provision for 200,000 litres storage is considered onerous and unable to be enforced through the subdivision process. The Authority notes that it has no power to limit or control the right of owners of the proposed lots to take groundwater for the purposes set out in Section 14.

One submission was received opposing the subdivision on the evidence that the groundwater is limited and the ability for households to obtain a reliable water supply by utilising rainwater has not been validated. It was also noted that further detailed planning should be undertaken into the scale and role of the Berry Springs Activity Centre. The submitter also felt the application was questionable as the applicant had not progressed a number of earlier applications.

The Authority considers that the groundwater constraints in the Berry Springs Groundwater System have been thoroughly investigated by DENR and that the consequences of overuse will pose an unacceptable threat to critical environments and to existing landholders that utilise the groundwater. Further subdivision without provision of an alternative reliable water supply is not supported.

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.

There are several related issues that are likely to result in detrimental impacts on the existing and future amenity of the area. The groundwater system is currently over allocated leading to a reduction in the quantity and quality of groundwater. A reduction in groundwater reduces discharge into water dependent ecosystems including the popular Berry Springs complex and lesser known Parsons and Twin

River Farm Springs. It also limits groundwater availability to existing users and can impact soil quality through increased salt and minerals.

4. Pursuant to 51(s) of the *Planning Act*, the consent authority must take into account any beneficial uses, quality standards, criteria, or objectives, that are declared under the *Water Act*.

The Department of Environment and Natural Resources has advised the Authority that the application for subdivision is located within the declared Berry Springs Water Allocation Plan 2016-2026 area and within the existing beneficial uses declaration for the Darwin Harbour Region – Natural Waterways. The declared beneficial uses are agriculture, environment and rural stock and domestic purposes.

The advice of the Department of Environment and Natural Resources is that the proposed subdivision will result in adverse impacts on environmental flows to the Berry Springs complex and unsustainable demand on the groundwater resource, reducing the reliability of supply for agriculture, the environment, rural stock and domestic purposes.

The Authority considers that the application should be refused as it will result in unreasonable and detrimental impact on groundwater resources. Increased drawdown will exceed the estimated sustainable yield available for all beneficial uses contained within the declared Berry Springs Water Allocation Plan.

5. Pursuant to 51(t) of the *Planning Act*, the consent may consider any other matter it thinks fit.

The Authority considers that in making its decisions it is relevant to refer to the Objects of the *Planning Act*, in particular 2A (d) control of development to provide protection of the natural environment, including by sustainable use of land and water resources.

The Authority has received advice from the Department of Environment and Natural Resources that the proposed subdivision will impact on the sustainability of the Berry Springs Groundwater System and reduce reliability of supply to existing users and the environment. The Authority, following consideration of this advice and the submissions from the applicant has determined that refusal of the application is necessary in order to ensure the ongoing sustainability of water resources in the locality.

**ACTION:** Notice of Refusal

**ITEM 6  
PA2017/0434  
APPLICANT**

**SUBDIVISION TO CREATE THREE LOTS  
LOT 2 (265) WHITEWOOD RD, HUNDRED OF BAGOT  
NORTHERN PLANNING CONSULTANTS PTY LTD**

DAS tabled an amended recommendation.

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd), Mr Simon Byrne (Byrne Consulting) and Ms Coral Reichlmeier (landowner) attended.

**RESOLVED  
102/18**

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority consent to the application to develop Lot 2 (265) Whitewood Road, Hundred of Bagot for the purpose of a subdivision to create three 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 two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show a 30m wide easement which serves to clearly identify (and effectively preserve) the area for a future road to be constructed between Madsen to Whitewood Road as identified in the Area Plan for the Howard Springs Rural Activity Centre, to the satisfaction of the consent authority.
2. 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 the 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. 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. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, 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.
6. 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 Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics and/or the Litchfield Council to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
7. 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 on the plan of subdivision submitted for approval by the Surveyor General.

8. Before the issue of titles, an easement effectively preserving a 30m wide corridor which clearly identifies (and effectively preserves) the area shown on the endorsed plans for a future road to be constructed between Madsen to Whitewood Road shall be registered against the title of the current lot (which will subsequently transfer to the newly created lots upon the issue of new titles), to the satisfaction of the consent authority.
9. 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.
10. The owner shall:
  - a. remove disused vehicle and/ or pedestrian crossovers;
  - b. provide footpaths/ cycleways;
  - c. collect stormwater and discharge it to the drainage network; and
  - d. undertake reinstatement works;all to the technical requirements of and at no cost to the Litchfield Council, to the satisfaction of the consent authority.
11. Before the issue of titles, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority on advice from Northern Territory Fire and Rescue Services.
12. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act*, pay a monetary contribution to the Litchfield Council for the upgrade of local infrastructure, in accordance with its Development Contribution Plan.
13. Appropriate erosion and sediment control measures should be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the Consent Authority. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.

#### NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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. 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).
3. 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.

4. A groundwater extraction licence may be required under the *Water Act* for any bore used for purposes other than rural stock and domestic water supply. For advice on water extraction licences please contact the Policy and Planning Branch of the Department of Environment and Natural Resources.
5. The applicant is advised to engage a building certifier, within the meaning of the *Building Act*, as to whether the building/s comply with the *Building Act* and associated Regulations.
6. 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](mailto:place.names@nt.gov.au). Further information can be found at [www.placenames.nt.gov.au](http://www.placenames.nt.gov.au)
7. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>.
8. 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. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
9. A "Permit to Work Within a Road Reserve" may be required from Litchfield Council before commencement of any work within the road reserve.

## 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 Northern Territory Planning Scheme is the relevant planning scheme.

The application demonstrates compliance with the relevant requirements of the NTPS including Clause 11.1.1 (Minimum Lot Sizes and Requirements); Clause 11.4.1 (Site Characteristics in Subdivision of Rural and Unzoned Land for Lots of 1 ha or Greater) and Clause 11.4.2 (Infrastructure in Subdivisions of Rural and Unzoned Land).

Clause 4.1 (a) (i) of the Scheme requires the administration of the Scheme to "contribute to a built, rural and natural environment supporting the diverse lifestyle and the social, cultural and economic

development of the Territory promoting public infrastructure including a coordinated, integrated and efficient transport network”.

Clause 14.7.3 (Planning Principles and an Area Plan for the Howard Springs Rural Activity Centre) – the intent of key objective 5 is to provide a coordinated, efficient and interconnected transport network.

A key feature of the area plan is a new connection from Madsen Road across Whitewood Road to Smyth Road. The alignment of this connection is intended to facilitate future improvements to regional public transport, cycle and pedestrian networks between the Coolalinga bus interchange and Palmerston bus interchange via the Howard Springs Rural Activity Centre to improve transport options, route choice and ease of access to a greater range of services for Howard Springs residents.

The authority considers the requirement of an easement between Madsen and Whitewood Roads in the centre of the existing property, as well as a connection to adjoining land to the east suitable and will effectively preserve the area for a future road to be constructed as identified in the Area Plan for the Howard Springs Rural Activity Centre.

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

Two public submissions were received during the exhibition period under Section 49 of the *Planning Act* with respect to the proposal. One submission raised concerns about the impact on amenity and assumptions made in the application about the location of the connector road on the area plan while the other supported the proposal and the proposed road alignment.

It is considered all public submissions have been addressed as the area plan has now been finalised and an assessment has taken place in accordance with this approved document.

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

Establishing a connector road between Madsen Road and Whitewood Road is essential to the future development of the area and will facilitate the creation of a future regional public transport route by ensuring development does not compromise the ability to extend Madsen Road north west to Holtze and to extend Smyth Road south to Coolalinga as indicated in the locality plan.

The requirement for the subdivision plan to illustrate an easement that reflects the connector road as identified in the Area Plan for the Howard

Springs Rural Activity Centre will ensure essential infrastructure is available to accommodate future growth within the locality.

**ACTION:** Notice of Consent and Development Permit

**ITEM 7  
PA2017/0285**

**CONCURRENT APPLICATION: REZONE FROM R (RURAL) TO RL (RURAL LIVING) AND SUBDIVISION TO CREATE THREE LOTS  
LOT 9 (35) FINN ROAD, HUNDRED OF AYERS  
EARL JAMES & ASSOCIATES**

**APPLICANT**

Mr Kevin Dodd (Earl James & Associates) and Ms Fiona Gorman (landowner) attended.

**RESOLVED  
103/18**

Pursuant to section 30W(1)(a) of the *Planning Act*, the Development Consent Authority consent to the proposal to develop Lot 9 (35) Finn Road, Hundred of Ayers for the purpose of a subdivision to create three lots, subject to following conditions:

**CONDITION 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 the 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 or an alternate approved connection.

**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. The owner of the land must enter into agreements with the relevant authorities for the provision of drainage, sewerage, electricity facilities and telecommunication networks to the development/each lot shown on the endorsed plan in accordance with the authorities requirements and relevant legislation at the time.
4. 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 on the plan of subdivision submitted for approval by the Surveyor General.
5. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle corridors and street scaping are to be to the technical requirements of Litchfield Council to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
6. 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.

7. 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.

and

The owner shall:

- a. remove disused vehicle and/ or pedestrian crossovers;
  - b. provide footpaths/ cycleways;
  - c. collect stormwater and discharge it to the drainage network; and
  - d. undertake reinstatement works  
all to the technical requirements of and at no cost to the Litchfield Council, to the satisfaction of the consent authority.
8. Appropriate erosion and sediment control measures should be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the Consent Authority. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
  9. Before issue of titles, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority on advice from the Bushfires NT (Department of Environment and Natural Resources).
  10. Before the issue of titles, the owner must, in accordance with Part 6 of the *Planning Act*, pay a monetary contribution to the Litchfield Council for the upgrade of local infrastructure, in accordance with its Development Contribution Plan.
  11. Before issue of titles and pursuant to section 34 of the *Land Title Act*, 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: "No bore shall intersect the Berry Springs Dolostone Aquifer, including remediation bores". Evidence of lodgement on the parent parcel shall be provided 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](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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" may be required from Litchfield Council before commencement of any work within the road reserve.
3. 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).

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. A groundwater extraction licence may be required under the *Water Act* for any bore used for purposes other than rural stock and domestic water supply. For advice on water extraction licences please contact the Policy and Planning Branch of the Department of Environment and Natural Resources.
6. 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](mailto:surveylandrecords@nt.gov.au) 08 8995 5354. The numbers shown on the plans are indicative only and are not for addressing purposes.
7. 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. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.

#### **REASONS FOR THE DECISION**

1. Pursuant to sections 30W(2) of the *Planning Act*, the consent authority must take into account any planning scheme that applies to the land to which the application relates and the amendment proposal contained within the application.

The amendment proposal accords with the policy for future development of the locality as established by the LSRLUP and will provide opportunity to rezone land from Zone R (Rural) to Zone RL (Rural Living), to cater for the growing demand for rural living.

Council supports the rezoning proposal but did not support the subdivision proposal given the proposed lot sizes did not meet the minimum requirement of the Northern Territory Planning Scheme. The applicant has since amended the subdivision design to comply with Clause 11.1.1 (Minimum Lot Size Requirements) and now complies with all requirements of the NT Planning Scheme.

2. Pursuant of section 30W(2) of the *Planning Act*, the consent authority must take into account any interim development control order in force for the land.

The proposed subdivision is located within the Berry Springs Interim Development Control Order (IDCO) number 22 area, and Berry Springs water allocation plan area. The Department of Environment and Natural Resources advises that suitable water supply for domestic purposes can be intersected in the sediments of the South Alligator Group formation and there is no issue with water quality. The requirement of a caution notice stating that "No bore shall intersect the Berry Springs Dolostone Aquifer, including remediation bores" will

inform future landowners that any bores drilled on the new lots must not source water from the Berry Springs Dolostone Aquifer.

3. Pursuant of section 30W(2) of the *Planning Act*, the consent authority must take into account the capability of the land to support the development proposal and the effect of the proposal on the land, and on other land, the physical characteristics of which may be affected by the proposal.

The development will ensure all lots meet the minimum size for RL zoned land of 2ha and that each lot contains at least 1ha of land that is unconstrained by drainage.

The Department of Environment and Natural Resources advises that no significant habitats or Priority Environmental Management areas are present on or immediately adjacent to the parcel and provided erosion control measures are put in place, there are no concerns with the capability of the land to support the proposed development as there is 1ha of unconstrained land at each proposed parcel.

4. Pursuant to Section 30W(2) of the *Planning Act*, the consent authority must take into consideration the capability of the public utilities or infrastructure provided in the area in which the land is situated and any requirement for public facilities and services to be connected to the land; and facilities, infrastructure or land to be provided by the applicant.

Service authority requirements in relation to infrastructure and technical standards are appropriately addressed through standard conditions applied to the Development Permit.

**ACTION:** Notice of Consent and Development Permit

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

**SUZANNE PHILIP**  
Chair

25 June 2018