



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING NO. 286 – WEDNESDAY 14 FEBRUARY 2024

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

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

APOLOGIES: Rachael Wright

LEAVE OF ABSENCE: Nil

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

COUNCIL REPRESENTATIVE: Jaimie O'Connor and Perupkar Singh

Meeting opened at 11.00 am and closed at 11.45 am

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

ITEM 1
PA2018/0177 CLEARING OF NATIVE VEGETATION

SECTION 2890 (285) PEACOCK ROAD, DARWIN RIVER, HUNDRED OF CAVENAGH

APPLICANT MasterPlan NT

Applicant: Sabella Fuss (MasterPlan NT) attended.

RESOLVED
05/24

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 2890 (285) Peacock Road, Darwin River, Hundred of Cavenagh for the purpose of clearing of native vegetation, subject to the 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.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings numbered 2018/0177/1 endorsed as forming part of this permit.
3. The clearing of native vegetation is to be undertaken only in the areas identified on the endorsed drawing as "Permitted Clearing". All remaining native vegetation is to be maintained to the satisfaction of the consent authority.
4. The permit holder must ensure that the clearing operator has a copy of the permit, including the endorsed drawing, at all times during the clearing operation.
5. Before the vegetation removal starts, the boundaries of all vegetation stands to be removed and retained must be clearly marked on the ground or marked with tape or temporary fencing to the satisfaction of the consent authority.
6. Before *the use commences*, 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, Parks and Water*

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Security / Northern Territory Fire and Rescue Services).

7. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
8. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
9. 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.
10. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Litchfield Council, to the satisfaction of the consent authority.
11. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street, in accordance with the requirements of Litchfield Council, to the satisfaction of the consent authority.

NOTES

1. Section 2890 is partially within Power and Water Corporation's Primary Water Buffer Zone and any further development of this site will require prior approval.
2. Notwithstanding any approved plans, signs within the Litchfield Councils municipal boundaries are subject to approval under Interim Development Control order 31.
3. The Power and Water Corporation advises that the Power Network Engineering Section (powerdevelopment@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.
4. A "Works Permit" may be required from Litchfield Council before commencement of any work within the road reserve, which would include creation of any driveway crossover connecting to Council's road network.

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Litchfield Council's fees and charges may apply.

5. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by DEPWS. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

6. A permit to burn is required from the Regional Fire Control Officer, Department of Environment, Parks and Water Security, prior to the ignition of any felled vegetation on the property. Fire prevention measures are to be implemented in accordance with the requirements of the *Bushfires Management Act 2016*.
7. The permit holder is advised that it is an offence to disturb or destroy prescribed archaeological places without consent under the *Heritage Act 2011*. Should any heritage or archaeological material be discovered during the clearing operation, cease operation and please phone Heritage Branch of the Department of Territory Families, Housing and Communities.
8. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
9. In zone R (Rural) Agriculture and Horticulture are permitted forms of development subject to compliance with the relevant requirements. Should the proposed development not comply with the relevant requirements a development permit will be required.

REASONS FOR THE DECISION

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

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The NT Planning Scheme 2020 applies to the land and the clearing of native vegetation requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8 (c) (v), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and the Litchfield Subregional Land Use Plan 2016), Overlay 3.2 CNV (Clearing of native vegetation), and Clause 4.21 Zone R (Rural) applicable to the application, need to be considered.

The proposed development complies with the relevant requirements. The consent authority noted that the proposed buffer area did not comply with the Land Clearing Guidelines. Buffer areas with a width of 50m is provided to Area 1 where a 100m would normally be required. In consideration of the unique nature of development on this particular site and the location of an unformed road adjacent to the site's western boundary, the proposed buffer area achieves the purpose of minimising the risk of spray drift affecting adjoining properties and contributes to the amenity of the locality. Further to this, Department of Environment, Parks and Water Security (DEPWS) raised no concerns with the proposed size of the buffer area.

2. Pursuant to Section 51(e) of the *Planning Act 1999*, 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.

One public submission was received expressing concern regarding the potential impact of spray drift on adjoining property owners and requested that some existing mango trees be removed and replaced with native vegetation as new buffer areas.

Whilst no concerns were raised by DEPWS with regard to the potential for spray drift impacting on adjoining property owners, the consideration of the public submission has led the authority to place an advisory note on the permit, stating the land owner's obligations and responsibilities to minimise potential pollution by spray drift under the *Waste Management and Pollution Control Act 1998* (the Act.)

In consideration of the submitter's comments, requesting that mango trees be removed and replaced with native tree buffer areas, the Consent Authority has determined that the buffer areas proposed to be established, will minimise the potential for sediment and spray drift from the area proposed to be cleared.

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

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In considering whether the land is capable of accommodating additional mango tree planting, the Consent Authority noted that a water allocation licence has been granted by DEPWS, in accordance with the land use proposed by the application, that the water allocation is sufficient to accommodate both the existing and proposed mango plantation and that DEPWS raised no concern about the capability of the land to accommodate the proposed development.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2023/0407**

SUBDIVISION TO CREATE 4 LOTS

**SECTION 2865 (94) STOCKWELL ROAD, BLACKMORE, HUNDRED OF
CAVENAGH**

APPLICANT

Cunnington Rosse Town Planning and Consulting

Applicant Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and Adam Griffiths (landowner) attended.

That, pursuant to section 53(b) of the *Planning Act 1999*, the Development Consent Authority alter the proposed development and consent to the proposed development as altered to develop Section 2865 (94) Stockwell Road, Hundred of Cavenagh for the purpose of a subdivision, to create 4 lots, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing numbered PA2023/0407/1, endorsed as forming part of this permit.
2. The owner of the land must enter into agreements with the relevant authorities for the provision electricity facilities and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 1, 2 and 3 for further information.

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. Prior to the issue of titles for each lot, a site and soil evaluation report, is to be prepared by an appropriately qualified site and soil evaluator, demonstrating that onsite wastewater management systems can be installed on each lot in accordance the requirements of the Code of Practice for Wastewater Management, to the satisfaction of the consent authority.

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5. Prior to the issue of titles for each lot, a pumped water sample for laboratory analysis of the groundwater (using recognised sampling procedures) from the subdivision area underlain by the Burrell Creek Formation aquifer system is to be collected. The sample is to be analysed by an accredited laboratory and the report to be provided to the Department of Environment, Parks and Water Security (DEPWS) to demonstrate that the groundwater is potable for human consumption to the satisfaction of the consent authority.
6. Subject to the results of the pumped water sample required through condition No. 5, if the groundwater is not potable for human consumption, then prior to the issue of titles to each lot and pursuant to section 34 of the Land Title Act, a Caution Notice shall be lodged with the Registrar General on the parent parcel, being Section 2865, Hundred of Cavenagh, stating that groundwater in this locality may not be suitable for human consumption and advising that landowners may be responsible for providing their own domestic water supply other than groundwater (e.g. Rainwater Tanks). The wording for the notice must be submitted to and approved by the consent authority prior to its formalisation. Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority prior to the issue of titles to each lot.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@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. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
3. 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>
4. All land in the Northern Territory is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding

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declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection.

Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to weedinfo@nt.gov.au

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 08 8995 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
6. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* 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.
7. A permit to burn is required from the Regional Fire Control Officer, Department of Environment, Parks and Water Security, prior to the ignition of any felled vegetation on the property. Fire prevention measures are to be implemented in accordance with the requirements of the *Bushfires Management Act 2016*.
8. Any new on-site wastewater management system is to be installed in accordance with the Code of Practice for Wastewater Management.
9. The permit holder is advised that the proposal may have assessment implications under the Commonwealth Environment Protection and Biodiversity Conservation Act, contact the Commonwealth Department of Environment, Water, Heritage and the Arts on (02) 6274 1111.
10. Litchfield Council's current Fees and Charges may apply. Additional information can be found at www.litchfield.nt.gov.au.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and Subdivision to create 4 lots requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(c)(ii),

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therefore the strategic framework (Part 2 of the Scheme, including the Litchfield Subregional Land Use Plan 2016), Overlays (Part 3) clauses 3.2 (Clearing of Native Vegetation) and 3.6 (Land Subject to Flooding), zone purpose and outcomes (Part 4) of clauses 4.7 (Zone RL – Rural Living), and subdivision and consolidation requirements (Part 6) clauses 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land), 6.3.3 (Site Characteristics for Subdivision for Lots of 1ha or Greater in Zones RR, RL, R and H, and Unzoned Land), 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for clause 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land).

Part 2 – Strategic Framework

The Litchfield Subregional Land Use Plan 2016

The Litchfield Subregional Land Use Plan (LSLUP) is a referenced document in the Northern Territory Planning Scheme and provides detailed planning specific to the Litchfield subregion and land use concept plans to guide development. The LSLUP includes land use policy that provides opportunities for urban growth in both the short and long term, whilst supporting the rural land uses and environment and respecting cultural heritage.

The LSLUP identifies the site is within a 'Rural Area'. A statement of policy for rural areas is to maintain rural amenity and lifestyle choice, to require reliable water supply adequate for residential use, to require stormwater drainage for new residential development to not adversely impact on the receiving environment and to require residential subdivision to provide roads and infrastructure to the requirements of the responsible authorities.

The subdivision creates 3 additional rural lots and is able to connect to power services. The proposal was able to demonstrate the land is capable of supporting the subdivision with all lots having at least 1ha of unconstrained land.

Part 3 – Overlays and Part 4 – Zone Purpose and Outcomes

There are no relevant Overlays that apply to this proposal and the site is within zone RL (Rural Living). The primary purpose of zone RL is to provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.

The proposed subdivision meets the purpose of the zone by providing for a range of rural lifestyle choices and rural activities. The subdivision will allow for a predominantly rural residential development on 2ha lots, which is consistent with the character and amenity provided for by the zone.

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The proposed subdivision layout has been designed in accordance with the land suitability assessment (LSA) submitted. The LSA, confirms the land exceeds the minimum requirements of unconstrained land. The Department of Environment, Parks and Water Security (DEPWS) did not raise any concerns with LSA assessment and advises that there is groundwater available to service the proposed development and use.

Part 6 – Subdivision and Consolidation requirements

All lots meet the minimum 2ha minimum lot size requirement; the subdivision design is informed by the Land Suitability Assessment (LSA) which provides a design that is consistent with the topographical constraints of the land; and, the Department of Environment and Natural Resources confirmed that there was adequate groundwater available for domestic use.

Each lot has unconstrained access from a public road to the unconstrained portion of each lot (at least 1ha). The LSA was undertaken, including a field assessment, which confirmed the land was able to support future residential development consistent with the zone provisions.

The plans submitted as part of this application had been amended to address Priority Environmental Management (PEM) areas, irregular lot layout and access road widths.

It is not considered appropriate to request the applicant to exclude the PEM area from the subdivision as it will result in the PEM land being a landlocked parcel. Furthermore, the boundaries within the PEM area already have firebreaks and fencing in place as these are the boundaries of the existing parcel.

The proposal will not result in the worsening or further disturbance of the PEM area especially as an Erosion and Sediment Control Plan (ESCP) has already been approved by the Department of Environment, Parks and Water Resources and implemented through the subdivision works, to ensure erosion and sedimentation is appropriately managed.

Clause 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land).

The purpose of this clause is to ensure that subdivision of land in Zones RL, R and Unzoned land is integrated with infrastructure, community services and facilities and will not unreasonably affect the environment.

The application has demonstrated, via the Land Suitability Assessment (LSA), that there is 1ha of unconstrained land per lot. Subclause 6.3.4(4) also requires, where there is no reticulated sewerage available, a site and soil evaluation report be lodged with the application, in order to demonstrate that onsite wastewater management systems can be installed on each lot in accordance the requirements of the Code of Practice for Wastewater Management.

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There was no report or assessment provided confirming the subdivided lots could provide a wastewater system that complies with the Code of Practice for Wastewater Management (CPWM; 2020) prepared by NT Department of Health.

A site and soil evaluation (SSE) report, required as a condition of approval, will confirm that 'onsite wastewater management systems' that meet the requirements of CPWM can be installed on each lot, while meeting all separation distances to bores and septic outfalls on nearby lots. Submission of an SSE report will also ensure compliance with Clause 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land) of the NT Planning Scheme 2020.

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

The land is currently serviced with reticulated power. The Department of Environment Parks and Water Security (DEPWS) advised that there is groundwater available to support the subdivision and previously confirmed that each lot contains at least 1 hectare of unconstrained land and the site is not constrained by soil drainage.

Comments received from the then Department of Environment and Natural Resources (now DEPWS), indicated that groundwater in the area had previously shown, in some circumstances, to contain levels of arsenic nearing Australian Drinking Guideline (2011) limits.

To ensure the groundwater is potable, testing is required. Should the groundwater not be potable, a caution notice is required to be registered on the land title advising of the health risks.

3. Pursuant to section 51(1)(e) of the *Planning Act 1999*, 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.

One public submission was received during the exhibition period. The submission raised concerns with the subdivision due to low rural residential demand in the area, limited infrastructure, road capability and stormwater.

Matters raised within the submission were considered and the consent authority determined that the land, rezoned to accommodate rural lifestyle development, is consistent with the Litchfield Subregional Land Use Plan 2016 to maintain rural amenity, lifestyle choice and the abutting zones are compatible with future rural residential uses.

The proposal was circulated to the Litchfield Council who are responsible for the care, control and management of Lawton and Stockwell Road road reserves. The Litchfield Council supports the proposal and did not raise

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traffic volumes as a concern or require upgrades to the roads or traffic network. Access to the proposed lots and stormwater management into the road reserve have been completed to the technical requirements of the Litchfield Council.

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

The proposal, generally accords with the Litchfield Subregional Land Use Plan 2016 and is considered that future residential development on the proposed lots are unlikely to adversely impact the area or alter community expectations for the site. The proposed lot sizes and subdivision density are expected in the area and the lots can achieve appropriate levels of residential amenity.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

19 February 2024