



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 237 – FRIDAY 16 AUGUST 2019

**HOWARD HALL
325 WHITEWOOD ROAD
HOWARD SPRINGS**

MEMBERS PRESENT: Suzanne Philip (Chair), Keith Aitken, Adam Twomey
Wendy Smith and Christine Simpson

APOLOGIES: Nil

OFFICERS PRESENT: Breanna Lusty (A/Secretary), Fiona Ray, Sonia Barnes (Development
Assessment Services)

COUNCIL REPRESENTATIVE: Rebecca Taylor

Meeting opened at 10.00 am and closed at 12.30pm

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 **INDEPENDENT UNIT EXCEEDING 80M2 IN FLOOR AREA**
PA2019/0241 **SECTION 4023 (85) SANDPIPER GROVE, HOWARD SPRINGS, HUNDRED OF**
 BAGOT
APPLICANT **ONE PLANNING CONSULT**

Israel Kgosiemang (One Planning Consult) & Simon Walker (Landowner)

RESOLVED That, pursuant to section 53(a) of the *Planning Act 1999* the Development
118/19 Consent Authority consent to the application to develop Section 4023 (85)
Sandpiper Grove, Howard Springs, Hundred of Bagot for the purpose of an
independent unit exceeding 80m2 in floor area, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. 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.
3. 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.
4. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
6. 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.
7. Before the use/occupation 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.
8. Existing landscaping at the front and side boundaries must be maintained to provide screening from the street and neighbouring properties.

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 onsite and/or surrounding infrastructure.

2. A Works Permit is required from Litchfield Council before commencement of any work within the road reserve, which would include creation of any driveway crossover connecting to Litchfield Council's road network.
3. Notwithstanding any approved plans, signs within Litchfield Council's municipal boundaries are subject to approval under Clause 6.7 (Signs) of the Northern Territory Planning Scheme.

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.

The proposal has been assessed against the relevant clauses of the Northern Territory Planning Scheme (NTPS) and generally complies. The proposal does not comply with the provisions of under Clause 7.10.4 (Independent Units) of the NTPS and variations to the provisions is sought as part of the application.

The site is zoned RL (Rural Living) of the NTPS. The primary purpose of Zone RL is to provide for low-density rural living and a range of rural land uses including agriculture and horticulture. The proposal is considered to be generally in accordance with the purpose of the zone as it allows for low-density rural living.

The primary purpose of Clause 7.10.4 is to ensure that an independent unit does not detrimentally impact on the amenity of adjoining and nearby property and remains ancillary to the single dwelling on a site. The independent unit is the second dwelling on the site and access to it is via the single existing crossover. Both dwellings are serviced by a single reticulated power and water connection.

The proposal does not comply with sub-clauses 2(b)(ii) and 2(d) of Clause 7.10.4. The proposal seeks approval for a floor area of the independent unit exceeding 80m² and that the unit would be serviced by an independent effluent disposal system.

The Authority is satisfied that the increased floor area to 107m² is appropriate and the independent unit is suitable for the site. The setbacks and existing landscaping soften the visual and acoustic impacts of the development from the surrounding properties

A licensed plumber provided documentary evidence that the existing effluent disposal system was incapable of accepting the increased load and the proposed system is appropriate for the development. The Authority considers that the independent unit can be serviced by an independent effluent disposal system.

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.

No public submissions were received during the exhibition period under section 49 of the *Planning Act 1999* with respect to the proposal.

3. Pursuant to section 51(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 is screened by established dense landscaping. The proposal also provides larger setbacks than required under Clause 7.3 (Building Setbacks for Residential Buildings and Ancillary Structures) of the NTPS. The setbacks and landscaping soften the visual and acoustic impacts of the development from the surrounding properties. The proposal is not expected to have any negative impacts on the existing or future amenity of the area.

ACTION: Notice of Consent and Development Permit

ITEM 2 **SHED AND CARPORT ADDITION (ONE STRUCTURE) TO AN EXISTING SINGLE DWELLING WITH A REDUCED SIDE SETBACK**
PA2019/0162 **SECTION 2066 (260) FRED'S PASS ROAD, HUMPTY DOO, HUNDRED OF STRANGWAYS**
APPLICANT **MARJORIE JAEGER & KYLIE MORGAN**

Ms Marjorie Jaeger & Kyle Morgan attended.
Ms Wendy Smith (left the meeting in accordance with s97(1) of the *Planning Act 1999*)

RESOLVED That, pursuant to section 53(c) of the *Planning Act 1999*, the Development Consent Authority refuse to consent to the application to develop Section 2066 (260) Freds Pass Road, Hundred of Strangways for the purpose of a shed and carport addition to an existing single dwelling with a reduced side setback for the following reasons:

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.

The Northern Territory Planning Scheme applies to the land to which the application relates. The application was assessed against Clauses 5.19 (Rural Living), 6.5.1 (Parking Requirements), 7.1 (Residential Density and Height Limitations), and 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and does not comply with Clause 7.3.

The proposal for a shed and carport addition (one structure) to an existing single dwelling are permitted uses and commonly found within Zone RL (Rural Living). If the proposal complied with Part 4 of the Planning Scheme, the structure would otherwise be permitted without consent.

Clause 2.5(4) (Exercise of Discretion by the Consent Authority) allows the authority to vary the provisions of Parts 4 or 5 only if it is satisfied that special circumstances justify the giving of consent. The applicant

put forward a number of matters for consideration, uppermost being that the preferred site was dry and not subject to periods of seasonal inundation and waterlogging as experienced on other parts of the site. Other advantages included retention of vegetation, approval from the affected neighbour and ample provision for the requisite 4m firebreak.

Whilst the Chair of the Authority considered that the rationale put forward was sufficient to justify special circumstance and allow a variation to Clause 7.3, the balance of members disagreed. In refusing the claim for special circumstances, members felt that it was possible to meet the setback requirements. The setback provisions are supported by the wider community and contribute rural amenity.

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 submission was received under section 49 of the *Planning Act 1999* in relation to the development application. The submission was made by the Litchfield Council. The submission objects to the application on the following grounds:

- there were no documented special circumstances
- no supporting information on waterlogging
- incomplete site plan
- the ability to develop on other nearby land
- stormwater.

Three members of the Development Consent authority shared the view of Litchfield Council that the matters put forward for special consideration were not sufficient to support a variation to Clause 7.3 and allow an 8m setback to the affected side boundary.

ACTION: Notice of Refusal

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

SUZANNE PHILIP
Chair
22 August 2019