



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 278 – WEDNESDAY 19 APRIL 2023

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

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

APOLOGIES: Nil
LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), George Maly, Eponine Richardson and James Calder (Development Assessment Services)

COUNCIL REPRESENTATIVE: Julie Hillier, Perupkar Singh, Tracey Hyde and Charlotte Cook

Meeting opened at 11.30 am and closed at 1.20 pm

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 **SUBDIVISION TO CREATE ONE LOT FOR THE PURPOSE OF A LEASE IN**
PA2023/0036 **EXCESS OF 12 YEARS**

APPLICANT **LOT 2 (30) VIRGINIA ROAD, VIRGINIA, HUNDRED OF BAGOT**

Earl James and Associates

Applicant Kevin Dodd (Earl James and Associates), Ray McCasker (landowner) and Jessie Heinrich (operator of the caravan park) attended.

Submitter Matthew Thomson attended via Teams videolink.

Submitters Roslyn McMillan and Gregory Smith attended.

RESOLVED That, pursuant to section 53(a) of the *Planning Act 1999*, the Development
32/23 Consent Authority consent to the application to develop Lot 2 (30) Virginia Road, Virginia, Hundred of Bagot for the purpose of subdivision to create one lot for the purpose of a lease in excess of 12 years, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing numbered 2023/0036/01, endorsed as forming part of this permit.
2. 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.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. Prior to the issue of Part V, unrestricted access and egress to all car parking spaces and service areas through all leased areas must be provided to the satisfaction of the consent authority. Evidence of a lease agreement or other arrangements must 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 (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

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to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. 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.
3. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au.
4. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>.

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 the proposed subdivision requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(1)(c)(ii), therefore the strategic framework (Part 2 of the Scheme – Litchfield Subregional Land Use Plan) and the zone purpose and outcomes of Clause 4.11 (Zone C – Commercial), 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.

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 fully developed and proven capable of supporting the existing uses. The subdivision for lease is administrative in nature and does not appear to have any implications on land capability.

3. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under

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section 49, and any evidence or information received under section 50, in relation to the development application.

The application was placed on public exhibition from 24 February 2023 to 10 March 2023. Three public submissions were received under section 49(1) of the *Planning Act 1999*.

The submissions raised concerns regarding the existing septic system, stormwater runoff, car parking, the future planning of the area and the accuracy of the lodged plans, which, at the time of lodgement, showed the boundary as being located over the adjoining parcel. A revised application was submitted on 24 February 2023 with a corrected Statement of Effect and an amended plan showing the correct location of the rear boundary.

These issues were also raised by the submitters at the meeting, along with concerns over deliveries and rubbish removals, which, according to the submitters, were occurring within Hinton Road, rather than on site.

At the meeting, the submitters were advised that issues relating to the septic system are managed by Department of Health whilst problems with stormwater flows cannot be reconciled through a lease proposal. Issues relating to car parking and the future planning of the area were also considered to be irrelevant to the subject proposal as the existing car parking layout and numbers have been established under previous planning approvals and the application was considered to be generally consistent with the current strategic framework that applies to the subject land. The Authority did impose a condition of approval on the applicant requiring an unrestricted access to all car parking space and service areas through the parent parcel to address concerns by the submitters and the Litchfield Council that the new lease boundaries will restrict access to these spaces.

Concerns raised by the submitters at the meeting regarding loading and unloading of delivery vehicles within the Hinton Road were directed to Litchfield Council as they manage the road corridor and can impose restrictions on those activities.

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.

There is unlikely to be an adverse impact on the existing and future amenity of the area as a result of the proposed subdivision. The subject land contains the Boomerang Motel and Caravan Park and the subdivision will not alter the nature of the existing development. The subdivision serves only an administrative purpose and therefore, will not impact on the amenity of the area.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2023/0057**

CHANGE OF USE FROM WAREHOUSE TO ANIMAL BOARDING (UNIT 1)

APPLICANT

SECTION 4657 (6) BUTLER PLACE, HOLTZE, HUNDRED OF BAGOT

Lucycat Pty Ltd

Applicant Amanda Lawrie (Lucycat) attended via Teams videolink.

Submitter Tony Lindsey attended.

**RESOLVED
33/23**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 4657 (6) Butler Place, Holtze, Hundred of Bagot for the purpose of change of use from warehouse to animal boarding (Unit 1), subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into Litchfield Council's stormwater drainage system shall be submitted to and approved by Litchfield Council. The plan shall also indicate how uncontaminated stormwater will be collected on the site and connected underground to Litchfield Council's system and ensure that no stormwater will sheet-flow into the road reserve.
2. Prior to the endorsement of plans and prior to the commencement of works, a waste management plan demonstrating the removal of animal waste shall be submitted to Development Assessment Services to the satisfaction of the consent authority.

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. The owner shall collect stormwater and discharge it to the drainage network; and undertake reinstatement works; all to the technical requirements and satisfaction of Litchfield Council, at no cost to Litchfield Council.
5. 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 public street, to the satisfaction of Litchfield Council.
6. 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.
7. Before the use of the development starts, the area set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;

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- (b) properly formed to such levels that they can be used in accordance with the plans;
- (c) surfaced with an all-weather-seal coat;
- (d) drained;
- (e) line marked to indicate each car space and all access lanes; and
- (f) clearly marked to show the direction of traffic along access lanes and driveways

to the satisfaction of the consent authority.

Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

- 8. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their clients.
- 9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply and electricity to the development as shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 4 and 5 for further information.

- 10. The use may operate only between the hours of 7am and 6pm any day of the week.
- 11. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a) transport of materials, goods or commodities to or from the land
 - b) appearance of any building, works or materials
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - d) presence of vermin

NOTES

- 1. This permit will expire if one of the following circumstances applies:
 - a) the use is not started within two years of the date of this permit; or
 - b) the development is not completed within *four* years of the date of this permit.

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

- 2. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au.
- 3. 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.

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4. Notwithstanding any approved plans, signs within Litchfield Council's municipal boundaries are subject to approval under Interim Development Control Order 29.
5. 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.
6. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (Eoi) form via email to remotedevelopment@powerwater.com.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 Animal boarding requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 4.14 Zone LI (Light Industry), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan and Litchfield Subregional Land Use Plan, which are relevant to this application), zone purpose and outcomes of Clause 4.14 Zone LI (Light Industry), and Clauses 5.2.1 (General Height Control), 5.2.4 (Car Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.6.1 (Setbacks and Building Design in Zones LI, GI and DV), 5.6.2 (Expansion of existing Developments in Zones LI and GI) and 5.7.2 (Animal Related Use) need to be considered.

The Consent Authority noted that Clause 5.7.2 was amended after filing of the application to correct an error made in transitioning provisions from the previous Scheme to the current Planning Scheme. In assessing the application, the clause as amended provides the relevant standard. All the applicable clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme.

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.

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The proposed development utilises the existing building and car parking area of the site. Non-structural upgrades to the existing building and site has little impact on the land and on other land in the locality. A schematic stormwater plan is required by Condition precedent to ensure stormwater is appropriately drained to the satisfaction of Litchfield Council.

3. 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 animal boarding facility can be designed and managed so as not to cause detriment to the amenity by reason of excessive noise or odour from animal waste. The applicant has a no tolerance policy for excessive barking. Animal waste can be managed offsite or onsite and the Authority has required a Waste Management Plan to be submitted in that regard. In addition, the hours of operation are from 7am to 6pm which are usual day time operating hours. There is no overnight boarding of animals.

4. 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.

Eight (8) submissions were received from nearby land owners and businesses expressing concerns regarding increased traffic flow, noise from barking, odour from animals and reverse sensitivities in the form of noise from light industrial activity disturbing dogs attending the animal boarding facility. The Consent Authority carefully considered the written submissions and the oral representations made by Mr Lindsey who attended the meeting. While noting the submitters' concerns, the Authority considers that the impacts on the amenity from noise and odour generated by the proposed use have been addressed by the proposed policies and procedures of the business, site and building upgrades and limiting hours of operation.

Onsite car parking compliant with the scheme is provided. Litchfield Council has raised no issues with regard to traffic flow.

Reverse sensitivity of noise from light industrial activities disturbing the welfare of dogs is not considered to be an issue as the definition of light industry land use precludes activities which would adversely affect the amenity of the surrounding locality by reason of the emission of noise, smell, waste products or otherwise.

In summary, the proposed development can be managed to avoid detrimental impact on the amenity of the locality consistent with what is expected and anticipated for a use in Zone LI (Light Industry).

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FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development

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

SUZANNE PHILIP
Chair

26 April 2023