



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 233 – FRIDAY 12 APRIL 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: Margaret Macintyre (Secretary), Alana Mackay, Sonia Barnes and Ben Wollinski, Sally Graetz (session 1 only) (Development Assessment Services)

COUNCIL REPRESENTATIVE: Edward Li

Meeting opened at 10.00 am and closed at 12noon

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 **CONCURRENT APPLICATION:- REZONE FROM RL (RURAL LIVING) TO**
PA2018/0035 **RR (RURAL RESIDENTIAL) AND FD (FUTURE DEVELOPMENT) AND**
 SUBDIVISION TO CREATE 5 LOTS
APPLICANT **LOT 2981 (131) MENAJA ROAD, HUNDRED OF BAGOT**
 EARL JAMES & ASSOCIATES

Mr Kevin Dodd (Earl James and Associates) and Mr Tony Thiel (landowner) attended.

Mr Dodd tabled three pages of email correspondence to and from Litchfield Council in relation to proposed driveway arrangements.

RESOLVED Pursuant to section 30W(1)(a) of the *Planning Act 1999*, the Development Consent
46/19 Authority consent to the proposal to develop Lot 2981 (131) Menaja Road,
 Hundred of Bagot for the purpose of a subdivision to create five lots, 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 or an alternate approved connection.

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 water supply, drainage, electricity facilities to 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.

The owner shall:

- a. remove disused vehicle and/ or pedestrian crossovers;
 - b. provide footpaths/ cycleways to the satisfaction of the Litchfield Council;
 - 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 and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>
 9. Before the issue of titles, the owner must, in accordance with Part 6 of the *Planning Act 1999*, pay a monetary contribution to the Litchfield Council for the upgrade of local infrastructure, in accordance with its Development Contribution Plan.

NOTES:

1. The land owner and developer should be aware that there is private water infrastructure ('banjo lines') within the Smyth Road road reserve. The developer and their contractors should take all reasonable steps to appropriately manage subdivision works, including for example, notification of users of the water lines of intended works, avoid damage and/or interruption of service of the water lines, and immediately make any necessary repairs if damage occurs.
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. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
4. 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).

5. There are statutory obligations under the Weeds Management Act 2001 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.
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 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 and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
8. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the Aboriginal Sacred Sites Act 1989. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
9. The Department of Health advises that the Howard Springs area can be subject to seasonal mosquito problems. There are no mosquito monitoring or control programs in the area.

REASONS

1. Pursuant to section 30W(2) of the *Planning Act 1999*, in reconsidering the development component, the consent authority must take into account the matters included in the authority's report given to the Minister under section 30Q(1).

The consent authority considered its report of 28 September 2018 where it reported to the Minister under section 30Q(1).

In its report to the Minister, it reported its preliminary decision regarding the development component and provided a summary of matters relevant to the subdivision including matters that the Authority considered the Minister should take into account, the three public submissions and the comments provided by service authorities.

In relation to matters the Authority considered the Minister should take into account, it provided information specifically regarding the requirements of Clause 11.4.5 (Subdivision of Land in Zone RR) including the requirements for lots in this zone to be connected to reticulated water. This matter was considered important, as the land is currently unserviced. The Authority acknowledged the requirements of the Scheme and, in response, the applicant stated its intention to provide for connection to reticulated water through the extension of existing infrastructure along Smyth Road. It noted that despite this, further assurances from the developer would be required for the Authority to consent to the subdivision.

The Authority noted that these additional assurances were provided in November 2018, in the form of a letter from the landowner to the Department of Infrastructure, Planning and Logistics.

The public submissions raised concerns regarding the potential impact the subdivision would have on existing private water infrastructure within Smyth Road and also suggested that existing water metres be removed from outside the 'old Mitre 10 building' (associated with the private water lines) and that a footpath be provided along Smyth Road.

The matter of the private water infrastructure, while acknowledged, is largely out of the control of the Authority. The water lines are understood to be within the road reserve controlled by the Litchfield Council and, as advised by the proponent, there are no banjo lines that cross the site. The Authority acknowledged the land owner's assurance at the meeting to take all reasonable steps to locate and protect the banjo lines as part of any subdivision works.

To ensure the current landowner and any future land owner/developer and their contractor(s) are aware of the presence of the private water lines, the Authority accepted the recommendation by Development Assessment Services and included a note (refer Note 1) on the permit regarding this. The note outlines the Authority's expectations that the landowner and/or developer and their contractor(s) will take all responsible steps to locate and ensure the protection of the private lines during subdivision works.

Additionally, the Authority acknowledged discussion at the hearing that further negotiation between the land owner/developer, the Power and Water Corporation and owners of the private water lines would be advantageous for provision of more future-proofed infrastructure that would cater for any increased demand on the reticulated infrastructure associated with future connections in the area. The Authority encouraged the land owner/developer to investigate any alternative options to facilitate this.

2. The Authority considered the previous assessment report ('DAS report'), including information contained within it regarding the proposal, service authority comments, public submissions and assessment of the proposal against the NT Planning Scheme and *Planning Act 1999*.

The DAS report considered the requirements of the NT Planning Scheme, including Clauses 11.1.1 (Minimum Lot Sizes and Requirements), 11.1.3 (Subdivision of Land in Zone FD), 11.4.2 (Infrastructure in Subdivisions of Rural and Unzoned Land), 11.4.3 (Lot Size and Configuration in Subdivision of Rural and Unzoned Land), 11.4.5 (Subdivision of land in Zone RR) and 14.7.3 (Planning Principles and Area Plan for the Howard Springs Rural Activity Centre).

A non-compliance with the requirements of Clause 11.1.1 was identified in the DAS report. The non-compliance comes about due to the size of proposed Lot 5, which has an area of 4000m² instead of 50ha as required in Zone FD (Future Development).

The Authority noted that Clause 11.1.3 (Subdivision of Land Zoned FD) enables it to approve the subdivision of land in Zone FD where it is in accordance with any relevant Area Plan and once services are, or can be made available.

The application demonstrated that proposed Lot 5 is an interim lot to enable further subdivision in accordance with Howard Springs Activity Centre Area Plan once servicing needs have been resolved. The identified FD zoning places a number of controls over development and subdivision of land in Zone FD, meaning that proposed Lot 5 could not be used without consent.

The DAS report which acknowledged that the application was accompanied by a Land Suitability Assessment that confirmed the presence of no land constraints within the property.

The DAS report further acknowledged that the Department of Environment and Natural Resources had advised that groundwater would not be available to support the proposed subdivision, noting over-allocation and sustainability concerns of the existing underground water resource.

The Authority relied on the advice of the Power and Water Corporation which confirmed that reticulated water is available in the area and also the confirmation within the application that it is the land owner/developer's intention to connect to this service.

Clause 11.4.5 (Subdivision of Land in Zone RR) prevents the consent authority from approving the subdivision unless the lots will be connected to reticulated water. Noting the above, the consent authority made reference to the availability of appropriate reticulated services and the proponent's intention to connect to these services as being indicative of the land's capability of supporting the proposal and that the proposal is in accordance with clause 11.4.5. The Authority confirmed the proponent's understanding of this requirement at the meeting.

In relation to the advice of Litchfield Council specifically, and matters that relate to the development component, the Authority noted the Council's support of the size of proposed Lot 5. It also noted Council's concerns regarding the design and available driveway locations and potential resulting conflict with Macleod Road intersection directly opposite the lot.

The applicant provided an amended plan showing revised driveway locations in April 2019 and indications that the design would now resolve the Council concern regarding potential traffic conflict. Noting that formal advice from Council had not been received by the Authority, the proponent tabled a copy of an email from Council confirming that the design was acceptable.

Council's representative at the meeting further confirmed that Council was in receipt of an amended plan and that the design was acceptable. On this basis, the Authority confirmed that draft condition precedent 1 which required submission of amended plans demonstrating

appropriate and approved access to each of the lots, was therefore no longer required.

Submission of further plans/details will still be required to demonstrate how stormwater drainage will be managed, as requested by the Council. Condition precedent 2 deals with this requirement.

3. The Authority considered the minutes from the 10 August 2018 meeting of the Litchfield Division of the Development Consent Authority.

It noted the reasons for decision relating to this application, including the decision regarding the applicant's request to amended draft conditions 6 and 8, which related to site access and upgrades to road infrastructure. It noted the decision that inclusion of the conditions, in an unaltered form, was necessary to ensure appropriate servicing of the lots. Finally, it noted that, despite the above decision, it agreed to make minor changes to the wording of the conditions to clarify their meaning.

The Authority noted its previous consideration of the potential impact that the subdivision may have on the amenity of the area, including:

- That the subdivision is generally consistent with the requirements of the Scheme, including provision of appropriate lot configuration, connection to reticulated services and demonstration that the land is capable of supporting the proposed subdivision.
- That advice from the Department of Environment and Natural Resources indicated that increased groundwater extraction in this area would impact the sustainability of the groundwater resource.
- The advice from the Power and Water Corporation, which confirmed that reticulated water is available in the area but that the developer would need to undertake upgrades to the infrastructure to enable connection.

Finally, the Authority noted its decision to remove the condition requiring a caution notice to be registered on the land indicating that the area was subject to seasonal mosquito problems. This was in response to a request by the applicant and evidence available to the Authority at the meeting, including evidence provided by public submitters/local residents in attendance.

4. The Authority noted the request by the proponent at its meeting of 12 April 2019 to further amend conditions 6 and 8. The Authority determined that reference to 'pedestrian/ cycle corridors' within condition 6 was appropriate as the necessary corridors should be allowed for, whether or not footpaths and/or cycleways are required to be constructed by Council. In relation to condition 8, the Authority amended part (b) to include 'to the satisfaction of the Litchfield Council' to provide the additional clarification that the proponent sought. It further determined that payment of a bond by the proponent to the Council for construction of footpaths/cycleways once urban lots were developed/there was a need for the footpath, as suggested by Council's representative at the meeting, was not preferred in this case.

5. In making its decision, the consent authority relied on advice from the Minister for Infrastructure, Planning and Logistics confirming that an amendment decision had been made. This provided the necessary assurances that the amendment component of the application had been determined.

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2012/0994
APPLICANT

3RD EXTENSION OF TIME FOR TWO YEARS
UNIT 2675 (199) DORIS ROAD, HUNDRED OF CAVENAGH
DOUGLAS BARDEN

Mr Douglas Barden (landowner) and Mr Joe Sheridan (Masterplan) attended.

RESOLVED
47/19

That, pursuant to section 59(3)(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to extend the base period of DP13/0219B for a period of two years.

REASON FOR DECISION

The extension of time is supported to allow the applicant time to finalise the electrical site servicing plan and to conduct further discussions with the Department of Environment and Natural Resources in relation to augmenting the existing water extraction licence to provide for public water supply. This would enable the applicant sufficient time to finalise compliance of the conditions on DP13/0219 and Part 5 compliance of subdivision issued under section 62 of the *Planning Act 1999*.

The Authority noted that the current application is for the third extension of the period of the permit. While the Authority determined to grant the requested two years extension, the Authority is unlikely to support any further requests to extend the base period.

ACTION: Extension of Time

ITEM 3
PA2018/0139
APPLICANT

RECONSIDERATION:- INTENSIVE ANIMAL HUSBANDRY (DOG BREEDING)
LOT 13 (295) MCMINNS DRIVE, HUNDRED OF STRANGWAYS
BRENT AND TAIGHEN LANG

DAS tabled a letter from Litchfield Council detailing the number of registered dogs on the site.

Mr Brent Lang (landowner) attended in person and Mrs Taigen Lang (landowner) attended via mobile phone link up.

Submitter Mr Kerry Dysart attended.

RESOLVED
48/19

That, the Development Consent Authority vary the requirements of Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 13 (295) McMinns Road, McMinns Lagoon, Hundred of Strangways for the purpose of intensive animal husbandry (dog breeding), subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the Litchfield Council's 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.
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an elevation and layout plan showing the decommissioned kennel, now used for storage must be submitted to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works, a site plan demonstrating the entry/exit width dimension at the boundary crossover point shall be submitted to and approved by the Litchfield Council, to the satisfaction of the consent authority.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities, to the development shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
6. The kerb crossovers and driveways to the site approved by this permit are to meet the Litchfield Council's requirements, to the satisfaction of the consent authority.
7. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the Litchfield Council to the satisfaction of the consent authority.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Litchfield Council, to the satisfaction of the consent authority.
9. The use on the site is limited to a maximum of 25 fertile bitches with a total of 50 dogs (including pups) at any time.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. A "Permit to Work Within a Road Reserve" may be required from Litchfield Council before commencement of any work within the road reserve.
3. Inspection fees and charges may apply in accordance with Litchfield Council's current Fees and Charges. Additional information can be found at www.litchfield.gov.nt.au.

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 (Zone RL (Rural Living)), 6.1 (General Height Control), 6.5.1 (Parking Requirements), 6.5.3 (Parking layout), 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 10.1 (Animal Related Use and Development), 10.2 (Clearing of Native Vegetation).

The use of intensive animal husbandry (dog breeding) is a discretionary use in zone RL (Rural Living) and the use is generally found throughout the zone.

The number of parking spaces proposed is considered adequate for the use and business operations.

The Authority considers that unexpected drop-in customers are unlikely to occur and that the volume of traffic is able to be managed in or out of the site. The parking layout is considered adequate for the proposed operations on the site, with the Litchfield Council giving in-principle support for a variation of its policies determining: it is unlikely that the proposed commercial business will result in enough vehicular traffic to need to account for two-way traffic and should the business cease, it may be desirable to retain a standard residential width crossover.

The proposal is compatible with the streetscape and surrounding development as the structures cannot be seen from the street frontage. The structures are generally low and considered not to have any adverse effects of building massing when viewed from adjoining land and the street. The kennels by their design are considered to not cause overlooking of adjoining properties or affect breeze penetration through and between buildings. All structures are compliant with the setback requirements of the Northern Territory Planning Scheme.

2. 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.

A Veterinarian Audit Certification was undertaken in August 2017. The Audit concluded that the premises for keeping the animals is designed and operated so as not to cause detriment to the amenity of the locality by reason of offensive odour, excessive dust or the attraction of flies, vermin or otherwise.

The proposal was supported by the Litchfield Council and the Department of Primary Industry and Resources indicating the business appears to be a model commercial dog breeding operation.

The implementation of recommendations within the Neighbourhood Noise Impact Assessment and mitigation measures, for the current intensity, is considered to reduce the amenity impact of noise on neighbouring lots to a level that would not unreasonably detract from the rural lifestyle and amenity of neighbouring lots with the use of intensive animal husbandry (dog breeding) in the rural zone.

The submitter indicated that the restriction of feeding and exercise times, which was a recommendation in the Neighbourhood Noise Impact Assessment, was not of concern.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair
18 April 2019