



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 243 – FRIDAY 13 MARCH 2019

**HOWARD HALL
325 WHITEWOOD ROAD
HOWARD SPRINGS**

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

APOLOGIES: Keith Aitken

OFFICERS PRESENT: Margaret Macintyre (Secretary), Alana Mackay and Fiona Ray (Development Assessment Services)

COUNCIL REPRESENTATIVE: Rodney Jessup

Meeting opened at 10.45 am and closed at 12 noon

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

PA2019/0492 CLEARING OF NATIVE VEGETATION

LOT 8 (286) BROUGHAM ROAD, DARWIN RIVER, HUNDRED OF CAVENAGH

APPLICANT/S Richard Foo and Leela Ting

Mr Richard Foo (landowner) and Mr Graeme Owen (VPS Land Assessment and Planning) attended.

Mr Owen tabled an aerial photo showing 100m buffers and a breakdown of water usage.

**RESOLVED
35/20**

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 Lot 8 (286) Brougham Road, Hundred of Cavenagh for the purpose of clearing of native vegetation, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, 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 must be generally in accordance with the plans submitted with the application but modified to show a revised clearing plan with:
 - a) a 50m native vegetation buffer to the western property boundary
 - b) a landscape plan to increase the density of native vegetation in the vegetation buffer to the southern property boundary in order to enhance the buffer effect to adjacent land parcels
 - c) "Permitted Clearing" included as a notation on the drawing.
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.
3. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the kerb crossovers and/or driveways to the site to the technical requirements and satisfaction Litchfield Council, and at no cost to Litchfield Council.
4. Prior to the commencement of works, a **Type 2** Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment and Natural Resources ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP must be developed and/or certified by a Certified Professional in Erosion and

Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP should be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: das.ntg@nt.gov.au.

GENERAL CONDITIONS

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. 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.
7. 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.
8. 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.
9. All works relating to this permit must be undertaken in accordance with the endorsed Type 2 Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority. Should the endorsed Type 2 Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CEPSC) to the satisfaction of the consent authority. The revised ESCP should be submitted for acceptance to Development Assessment Services via email: das.ntg@nt.gov.au.
10. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. 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. For further information refer to Note 1 below. At completion of works, clearance should be sought from the Department of Environment and Natural Resources regarding satisfactory implementation of permanent erosion and sediment control measures and site stabilisation. To arrange a clearance site inspection, email the Land Development Coordination Branch at: DevelopmentAssessment.DENR@nt.gov.au.
11. The kerb crossovers and/or driveways to the site are to meet the technical standards of Litchfield Council. The owner shall remove disused crossovers; provide footpaths/cycleways, as required by Litchfield Council; and undertake reinstatement works; all to the technical requirements and satisfaction Litchfield Council, and at no cost to Litchfield Council.

12. Stormwater is to be collected and discharged into the drainage network to the technical requirements and satisfaction Litchfield Council, and at no cost to Litchfield Council.
13. 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.

NOTES:

1. Inspection fees and charges may apply in accordance with Litchfield Council's current Fees and Charges. Additional information can be found at www.litchfield.nt.gov.au.
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 of the NT Planning Scheme.
4. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at www.austieca.com.au and the Department of Environment and Natural Resources 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.
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 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 DENR.

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. 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.

7. Lot 8 Hundred of Cavenagh is within the Northern Fire Protection Zone. Lands within the Zone are required to install and maintain a firebreak either around the perimeter of the land or in another approved position close to the perimeter. The firebreak must be no less than 4m wide, bare earth or slashed to a maximum height of 50mm with the slashed material removed. No burning may take place except where a permit to burn has been obtained from a Fire Control Officer or a Fire Warden. Bushfires NT Batchelor Regional Office can be contacted on 8976 0098.

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 land is in Zone R (Rural). The primary purpose of Zone R is to provide for a range of activities including residential, agricultural and other rural activities. Horticulture is a permitted use in the zone. Clearing of native vegetation in excess of one hectare requires consent.

The purpose of Clause 10.2 (Clearing of Native Vegetation in Zones H, A, RR, RL, R, CP, CN, RD and WM and on Unzoned Land) is to ensure that the clearing of native vegetation does not unreasonably contribute to environmental degradation of the locality. The Department of Environment and Natural Resources (DENR) has assessed the application and visited the land to inform its consideration of the application. It advised that the soil type and slope are considered suitable for the use, a suitable vegetation buffer has been proposed to protect significant riparian vegetation and a first order stream and that it is unlikely that the proposal would impact local flora and fauna or regional biodiversity.

Whilst the proposal generally accords with the relevant clauses of the Northern Territory Planning Scheme, two matters were raised that require consideration being 10.3 subclause 2(g) whether there is sufficient water for the intended use and 10.3 subclause 2(l) requirements for appropriate property boundary buffers.

Sufficient water usage and water availability are highly dependent upon the irrigation regime and extent of land under cultivation. A standard mango cultivation regime requires five megalitres per hectare per year, which equates to an estimated usage of 200 megalitres for the proposed 40 hectares. The current water licence allows for 133 megalitres.

In making the application to cultivate 40 hectares it is proposed that a water efficient irrigation system would be installed that would significantly reduce water demand. The Department of Primary Industry and Resources advised that the proponent is known to use micro

sprinklers which are more efficient and on current practise the estimated water use would be between 104ML to 200ML/year for 40ha.

The DENR noted that any additional extraction from the resource would not be supported by the Berry Springs water allocation plan given existing impacts on the groundwater system. In progressing mango cultivation on Lot 8 Hundred of Cavenagh the proponent is advised that further development of Section 2616, would be limited by the capacity of water licence BSGS 10024.

In respect of subclauses 2(a) and 2(l), the applicant proposes a significant variation (reduction) to the property boundary buffers provided for in the *Land Clearing Guidelines 2019*. Properties between 20–100ha are recommended to retain buffers of 100m to the property boundary (excluding a firebreak of 10m). A 50m native vegetation buffer (inclusive of a 10m firebreak) is proposed to the road frontage, southern boundary and a section of the northern boundary. Native vegetation would be cleared to the property boundaries along two sections of the northern boundary and most of the western boundary.

In considering the request for a variation to the recommended buffers, the Authority noted that as a consequence of the shape of the block, a 100m buffer would render more than half of the site unable to be used for agriculture or horticulture. The Authority is of the view that the 100m buffer would impose an unreasonable constraint on the land that is suitable for the proposed use.

Whilst aware of the reduced viability associated with the recommended buffer width, the Authority recognises the importance of maintaining amenity for the eight lots adjacent to the southern boundary. As the purpose of a buffer is to reduce dust and chemical spray drift, provide for amenity and privacy, support wildlife movement and contribute to erosion and sediment control, an alternative treatment as proposed by the applicant is supported. A Condition Precedent has been placed on the Development Permit that requires a landscape plan to increase the vegetation density of the 50m buffer. Also, a native vegetation buffer of 50m is to be retained on the western boundary. The retention of the ten hectare riparian buffer is supported.

2. Pursuant to section 51(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49.

Two submissions were received under section 49 of the *Planning Act 1999*. Submitters were concerned with the impact of mango cultivation on the groundwater resource, the failure to cultivate adjacent Section 2616 despite the land being cleared and a water licence in place, amenity concerns regarding noise, burning, chemical spray drift, loss of habitat and weed infestation.

Water availability is a significant matter of concern for the community, relevant government agencies and the Authority. The applicant has a current water licence of 133ML/year. On the advice of the Department of Primary Resources, conservative and efficient use of the resource can support mango cultivation.

The provision of the amended native vegetation buffers is recommended to address concerns relating to habitat loss and chemical spray drift. Notes are included on the Permit to advise the landowner of their responsibilities under the *Weeds Management Act 2001* and the *Waste Management and Pollution Control Act 1998*.

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 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 Department of Environment and Natural Resources has determined that the land is capable of supporting the proposed use conditional on it being operated in accordance with water licence BSGS10024.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

16 March 2020