

DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 169 – FRIDAY 15 NOVEMBER 2013

WHITEWOOD HALL
325 WHITEWOOD ROAD
HOWARD SPRINGS

MEMBERS PRESENT: Peter McQueen (Chairman), Richard Luxton, Keith Aitken, Michael Bowman and Allan McKay

APOLOGIES: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary) Steven Kubasiewicz, Maree Domelow and Allison Hooper (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 10.00 am and closed at 11.30 am

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 **DEPENDANT UNIT WITH FLOOR AREA IN EXCESS OF 50M²**
PA2013/0703 **LOT 32 (30) JACOMB PLACE, HUNDRED OF STRANGWAYS**
APPLICANTS **GARRY WEST, CHERYL WEST, CARINA WEST & TRAVIS TE WHATA**

The applicants did not attend.

RESOLVED
362/13

That the Development Consent Authority vary Clause 7.10.4 (Dependant Units) of the NT Planning Scheme and pursuant to section 53(a) of the *Planning Act* consent to the application to develop Lot 32 (30) Jacomb Place, Hundred of Strangways for the purpose of a dependant unit with floor area exceeding 50m² subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2013/0703/01 and 2013/0703/02 endorsed as forming part of this permit.
2. 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.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. Engineering design and specifications for stormwater drainage and vehicular access 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.
5. The dependant unit is to be suitably screened from the property boundaries to minimise any impact on the amenity. Vegetation is to be maintained and supplemented to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
6. The installation of any conventional wastewater treatment system 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* to the satisfaction of the Department of Health. Upon installation, a certifying plumber must provide the Building Advisory Services of the Department of Lands, Planning and the Environment with all certified documentation for approval and clearance. Where a conventional wastewater system cannot be installed in accordance with the *NT Code of Practice for Small On-Site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent*, an alternative onsite

wastewater system must be installed to the satisfaction of the Department of Health.

7. The extraction of groundwater 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* and a potable supply provided to all habitable dwellings.
8. The applicant is to provide documentary evidence to the requirements of the Department of Health that registered bore RN022608 has been decommissioned to the satisfaction of the consent authority.
9. The dependant unit is to be used only for the purpose of providing accommodation for dependant/s of a resident of the existing single dwelling.

Expiry of Permit

This permit will expire if one of the following circumstances applies:

- (a) the development is not substantially commenced 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 an application is made in writing before the permit expires.

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.

REASONS FOR THE DECISION

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

A variation to Clause 7.10.4 (Dependant Units) of the NT Planning Scheme to permit the development of a dependant unit with floor area exceeding 50m² is supported as the proponent states the dependant unit is to be for the use of a wheel-chair-bound occupant, justifying the larger space required. Further, the application contends the unit is ancillary to the existing single dwelling: it is to be connected to the same driveway, power, water supply and waste-water treatment system as the single dwelling.

Clause 7.10.4 requires the consent authority also have regard to the potential impact on the residential amenity of adjoining properties. As such, a condition of the permit requires that vegetation around the

property boundaries be maintained and supplemented as required to affect screening and act as a buffer. This is expected to minimise potential impacts on local rural amenity and protect the privacy of the dependant unit residents as well as neighbours. This also ensures the development demonstrates closer compliance with the intent and requirements of the NT Planning Scheme.

2. Pursuant to section 51(j) of the *Planning Act*, the consent authority must take into consideration the capability of the land to support the proposed development.

The Litchfield Land Unit and Soil Drainage mapping indicates the proposed area for development is generally well drained. The site is serviced with reticulated electricity although there are no water or sewerage services available. The dependant unit will be connected to the existing waste-water treatment system and a new bore to be installed to service both dwellings. Two hectare rural blocks without reticulated water or sewerage services have limited options for the placement of additional/replacement bores and/or standard septic tanks that comply with the separation requirements detailed in the *NT Code of Practice for Small On-Site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent* (the Code). This development however does not propose the installation of additional infrastructure at this time, only the replacement of bore RN022608.

The Department of Land Resource Management advised it has not identified any issues of concern. Requirements of the Department of Health regarding effluent disposal and water supply have been reflected by the inclusion of standard conditions on the permit, as well as the decommissioning of registered bore RN022608, anticipated to ensure compliance with the Code.

3. Pursuant to section 51(n) of the *Planning Act*, 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 requirement to maintain and supplement vegetation to provide adequate screening of the dependant unit from property boundaries is expected to ensure the potential to impact on amenity is minimised.

ACTION: Notice of Consent and Development Permit

ITEM 2 **DEPENDANT UNIT WITH FLOOR AREA IN EXCESS OF 50M²**
PA2013/0667 **SECTION 2775 (355) PRODUCE ROAD, HUNDRED OF STRANGWAYS**
APPLICANTS **DENNIS RYAN & DENISE RYAN**

Mr Dennis and Mrs Denise Ryan attended.

RESOLVED That the Development Consent Authority vary Clause 7.10.4 (Dependant Units) of
363/13 the NT Planning Scheme and pursuant to section 53(a) of the *Planning Act* consent to
the application to develop Section 2775 (355) Produce Road, Hundred of Strangways

for the purpose of a dependant unit with floor area exceeding 50m² subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2013/0667/01 and 2013/0667/02 endorsed as forming part of this permit.
2. 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.
3. Stormwater drainage and vehicular access are to be to the technical requirements of Litchfield Council to the satisfaction of the consent authority.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of telecommunication and electricity facilities to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. The dependant unit is to be suitably screened from the property boundaries to minimise any impact on the amenity. The existing native vegetation buffers must be maintained to the satisfaction of the Litchfield Council and the consent authority, including that any dead, diseased or damaged plants are to be replaced.
6. The installation of any conventional wastewater treatment system 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* to the requirements of the Department of Health. Upon installation, a certifying plumber must provide the Building Advisory Services of the Department of Lands, Planning and the Environment with all certified documentation for approval and clearance. Where a conventional wastewater system cannot be installed in accordance with the *NT Code of Practice for Small On-Site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent*, an alternative onsite wastewater system must be installed on the advice of the Department of Health to the satisfaction of the consent authority.
7. The extraction of groundwater 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* and a potable supply provided to all habitable dwellings.
6. In accordance with clause 7.10.4 (Dependant Units), the dependant unit is to be used only for the purpose of providing accommodation for dependants of a resident of the single dwelling.

Expiry of Permit

This permit will expire if one of the following circumstances applies:

- (a) the development is not substantially commenced 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 an application is made in writing before the permit expires.

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.

REASONS FOR THE DECISION

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

A variation to Clause 7.10.4 (Dependant Units) of the NT Planning Scheme to permit the development of a dependant unit with floor area exceeding 50m² is supported as the proponent states the unit is ancillary to the single dwelling. Further, the larger floor area can be supported as the unit is to accommodate a family of four. In all other respects the dependant unit complies with the NT Planning Scheme.

Clause 7.10.4 (Dependant Units) requires that the consent authority have regard to the potential impact on the residential amenity of adjoining properties. As such, the conditions of the permit require that remnant native vegetation around the property boundaries is to be maintained. This is expected to minimise potential impacts on local rural amenity and protect the privacy of the dependant unit residents as well as neighbours. This ensures the development demonstrates closer compliance with the intent and requirements of the NT Planning Scheme.

- 2. Pursuant to section 51(j) of the *Planning Act*, the consent authority must take into consideration the capability of the land to support the proposed development.

The Litchfield Land Unit and Soil Drainage mapping indicates the site is generally flat and well drained. It is serviced with reticulated electricity however there are no water or sewerage services in the locality. The existing single dwelling is serviced by a septic and bore RN02940 however the application proposes an additional septic. Two hectare rural blocks without reticulated water or sewerage services have limited options for the placement of additional/replacement bores or septic that comply with the separation requirements detailed in the *NT Code of Practice for Small On-Site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent* (the Code). Conditions on the

recommended permit ensure wastewater treatment systems on site can/will comply with the Code and the requirements of the Department of Health.

The Department of Land Resource Management advised it has not identified any issues of concern. Requirements of the Department of Health regarding water supply (as well as effluent disposal) and have been addressed by the inclusion of standard conditions on the permit.

3. Pursuant to section 51(n) of the *Planning Act*, 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 requirement to maintain existing remnant native vegetation around the dependant unit to provide adequate screening from property boundaries is expected to ensure the potential to impact on amenity is minimised.

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2013/0663
APPLICANTS

CLEARING OF NATIVE VEGETATION
SECTION 1742 (190) JARVIS ROAD, HUNDRED OF COLTON
BRETT PEN-DENNIS & JACQUELINE PEN-DENNIS

The applicants sent their apologies.

RESOLVED
364/13

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority consent to the application to develop Section 1742 (190) Jarvis Road, Hundred of Colton for the purpose of clearing native vegetation, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing numbered 2013/0663/01 endorsed as forming part of this permit.
2. The clearing of native vegetation is to be undertaken only in the areas identified on the endorsed drawing to the satisfaction of the consent authority.
3. 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.
4. Clearing is to be undertaken at a time agreed upon with the Department of Land Resource Management only.

Expiry of Permit

This permit will expire if one of the following circumstances applies:

- (a) the development is not substantially commenced 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 an application is made in writing before the permit expires.

NOTES:

1. There are statutory obligations under the *Weeds Management Act* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Land Resource Management.
2. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Aboriginal Sacred Sites Act*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
3. The permit holder is advised that it is an offence to disturb or destroy prescribed archaeological places without consent under the *Heritage Conservation Act*. Should any heritage or archaeological material be discovered during the clearing operation, cease operation and please phone Heritage Conservation Services of the Department of Lands, Planning and the Environment.
4. A permit to burn is required from the Regional Fire Control Officer, Department of Land Resource Management, 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 Act*.
5. A groundwater extraction licence is required under the *Water Act* for any bore equipped to supply over 15 litres per second. For advice on water extraction licences please contact the Water Management branch of the Department of Land Resource Management.
6. Professional advice regarding implementation of soil erosion control and dust control measures are available from Department of Land Resource Management.
7. Clause 10.1 (Animal Related Use and Development) of the Northern Territory Planning Scheme, stipulates that "where the premises are for domestic livestock there is to be a minimum site area, unencumbered by any other use, of at least 1ha per animal".

REASONS FOR THE DECISION

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

The application to selectively clear approximately 1.9ha of native vegetation in order to establish improved pastures for domestic livestock

within Zone R (Rural) complies with Clause 5.20 (Zone R – Rural), Clause 10.2 (Clearing of Native Vegetation in Zones...R...) and Clause 10.3 (Clearing of Native Vegetation – Performance Criteria) of the NT Planning Scheme.

2. Pursuant to section 51(j) of the *Planning Act*, the Consent Authority must take into account the capability of the land to which the proposed development relates to support the proposed development.

Land unit and soil drainage mapping combined with aerial photography indicates the land is capable of supporting the proposed clearing. The Department of Land Resource Management advised it has not identified any issues of concern. The proposal to clear approximately 1.9ha of native vegetation appears to accord with the physical capabilities of the land.

ACTION: Notice of Consent and Development Permit

ITEM 4
PA2013/0660
APPLICANT

SUBDIVISION TO CREATE TWO LOTS
SECTION 3869 (145) STOW ROAD, HUNDRED OF BAGOT
EARL JAMES & ASSOCIATES

DAS tabled an addendum – additional submission from Mr Peter Cavanagh.

Mr Kevin Dodd (Earl James & Associates), Mr Robert & Mrs Margaret Shewring attended.

Mr Shewring tabled a copy the submission he spoke to.

Submitters in attendance:- Mr Geoffrey Cole, Mr Gerry Wood MLA and Mr Mark Trewartha.

Submitters who sent their apology:- Mr Alex Springer, Mr Peter Cavanagh and Mr Alan & Mrs Wendy Davis.

Interested Parties who attended:- Mr Ian Izod, Mr Bruce Hitchens, Mr Bob O'Neill, Samo and Mr Kevin Harvey.

RESOLVED
365/13

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Section 3869 (145) Stow Road, Hundred of Bagot for the purpose of a subdivision to create two lots for the following reasons.

REASONS FOR THE DECISION

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

The application is inconsistent with an intrinsic element of the primary purpose of Zone RL (Rural Living) which is to provide for low density

rural living. The term low density in the case of the Zone RL is characterised by 2ha lots (see clause 11.1.1) and the locality generally provides a lot density consistent with the purpose of zone RL.

The application does not comply with Clause 11.1.1 (Minimum Lot Sizes and Requirements) and Clause 11.4.3 (Lot Size and Configuration in Subdivision of Rural and Unzoned Land). The minimum lot size for land within Zone RL (Rural Living) is 2ha, and each lot must provide a minimum of 1ha of unconstrained land. The application proposes lot sizes of 1.01ha and 9580m², representing a reduction of 50% to the minimum lot size.

Clause 2.5(3) (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 has not demonstrated to the consent authority's satisfaction that special circumstances exist nor that the purported special circumstances would justify the giving of consent to a proposal that departs significantly from the applicable policies and requirements of Zone RL (Rural Living). The consent authority does not consider the applicants arguments that the land has effectively functioned as two separate lots and the two dwellings separately occupied, is a corner allotment, there are existing lots in the immediate locality with minimum areas down to 1300m², the mixed use nature of the locality and the Inpex workers accommodation are special circumstances that in combination justify the approval of lots half the size of the specified minimum.

Pursuant to Clause 2.7 (Reference to Policy) the interpretation of the Planning Scheme and the determination of the consent authority in relation to this application must have regard to the policies and planning concepts expressed in the Litchfield Planning Concepts and Land Use Objectives 2002 and ensure that a use or development or proposed use or development is consistent with them.

The intention of the 'Litchfield Planning Concepts and Land Use Objectives 2002' is to protect the amenity of existing residents and encourage development which will set a good precedent for future development. The proposed subdivision to create lots of 1ha is comparable to development that is generally considered acceptable by the polices and planning concepts in Zone RR (Rural Residential) than the current zoning and subdivision of the land as proposed would create an inconsistency in the development of land in the zone.

2. Pursuant to Section 51 (e) of the *Planning Act* the consent authority must take into account any public submissions in relation to the proposed development;

Six public submission were received. The consent authority considers that these submissions were generally supportive of smaller lots sizes four of the submissions qualified this support on the basis that parameters should be established to allow these smaller lot sizes to be created. The consent authority agreed with the premise of the submissions and considers that

such a significant departure from the established parameters of the subdivision requirements for zone RL would undermine the integrity of the Scheme. The consent authority considers that the NT Planning Scheme establishes the policy and parameters for subdivision to allow smaller lot sizes but only where a policy decision has been made to include land with zone RR (Rural Residential).

3. Pursuant to section 51(m) of the Planning Act, the consent authority must take into account the public facilities or infrastructure provided in the area in which the land is situated, the requirements for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

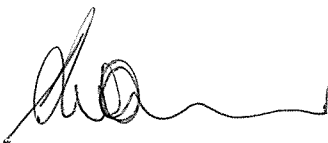
The consent authority considers that in isolation the subdivision of this lot will not place any significant load on the power and water infrastructure. Notwithstanding this the subdivision of this land into 1ha lots will create an expectation in the community that land in zone RL can be divided into smaller lot sizes when the minimum lot size is 2ha. This has the potential to increase rural living densities with no assessment having been made as to the ability of the service infrastructure to accommodate such an increase.

4. Pursuant to Section 51 (p) of the Planning Act the consent authority must take into consideration the public interest.

The authority considers that it is in the public interest to ensure that development occurs in a manner that is consistent with the Northern Territory Planning Scheme. No special circumstances have been demonstrated that support the application. Community expectations are that lots in zone RL will have a minimum area of 2ha.

ACTION: Notice of Refusal

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



PETER MCQUEEN
Chairman

21/11/13

