

DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 271 – FRIDAY 12 AUGUST 2022

AGORA ROOM, HUDSON, BERRIMAH, 4 BERRIMAH ROAD, BERRIMAH

MEMBERS PRESENT: Suzanne Philip (Chair), Keith Aitken, Adam Twomey, Emma Sharp and Doug Barden

APOLOGIES: Rachael Wright
LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: George Maly, Monica Pham, Joshua Larder and Breanna Lusty (Development Assessment Services)

COUNCIL REPRESENTATIVE: Mark Hogan

Meeting opened at 11.00 am and closed at 12.10

ITEM 1
PA2022/0192 **SUBDIVISION TO CREATE ONE LOT FOR THE PURPOSE OF LEASES IN EXCESS OF 12 YEARS**
LOT 2 (30) VIRGINIA ROAD, VIRGINIA, HUNDRED OF BAGOT

APPLICANT Earl James & Associates

Applicant Kevin Dodd (Earl James & Associates) attended.

Matthew Thompson (submitter) attended via Teams.

RESOLVED
72/22

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 2 (30) Virginia Road Virginia, for the purpose of a Subdivision to create 1 lot for the purpose of leasing for a period 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 2022/0192/01 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 water supply, sewerage 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 the parent parcel and the leased area 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 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.

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) of the NTPS2020, and therefore the strategic framework (Part 2 of the Scheme – Litchfield Subregional Land Use Plan 2016 (LSLUP 2016) and zone purpose and outcomes of Clause 4.11 (Zone C), need to be considered.

These clauses have been considered, and it was found that the proposal complies with the relevant requirements of NTPS2020. The proposed subdivision serves only an administrative purpose and will not compromise the objectives of the LSLUP 2016 and the purpose and outcomes of Zone C (Commercial). The application states that there is to be no change to the existing servicing or access arrangement for lot 2. A condition of approval was included in the permit to ensure that the proposed lease agreement does not impact on access to parking and other relevant services on the parent parcel or its leased portion.

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 application was circulated to the relevant authorities, and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development permit as required.

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 proposed subdivision is not anticipated to result in any adverse impacts to the existing or future amenity of the area. The subdivision will not alter the nature of the existing development within the subject land, including the extent or appearance of built form or the nature of the land use, servicing or access. The subject land already accommodates the development/use, and the proposed lease parcel will not affect other lands. The subdivision serves only an administrative purpose and, therefore, will not impact the amenity of the area.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent & Development Permit

ITEM 2
PA2021/0277

DWELLING-SINGLE WITH ANCILLARY DWELLING-INDEPENDENT WITH A FLOOR AREA IN EXCESS OF 80M2 WITH A SEPARATE EFFLUENT SYSTEM
SECTION 3802 (55) DICHONDRA ROAD, HOWARD SPRINGS, HUNDRED OF BAGOT

APPLICANT

Hup Keat Lye & Nuan Hui Ooi

Applicant and Landowner Hup Lye attended

RESOLVED
73/22

That, pursuant to section 53(c) of the *Planning Act 1999*, the Development Consent Authority refuse to consent to the application to develop Section 3802 (55) Dichondra Road, Howard Springs, Hundred of Bagot for the purpose of Dwelling-single with ancillary dwelling-independent with a floor area in excess of 80m² with a separate effluent disposal system for the following reasons:

REASONS FOR THE RECOMMENDATION

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 Dwelling-single with ancillary dwelling-independent with a floor area in excess of 80m² with a separate effluent disposal system requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(ii)(2), therefore Zone RL (Rural Living), Clause 5.2.1 (General Height Control), Clause 5.2.4 (Vehicle Parking), Clause 5.2.4.4 (Parking Layout), Clause 5.4.2 (Residential Height Limitations), Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 5.4.6 (Private Open Space) and Clause 5.4.13 (Dwelling-independent) 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 except for Clause 5.4.13 (Dwelling-independent).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found not to be in accordance with Clause 5.4.13 (Dwelling-independent), because the proposal will result in the dwelling-independent having a floor area exceeding 80m² and a separate effluent disposal system is proposed.

The purpose of Clause 5.4.13 is to ensure a dwelling-independent provides for increased housing choice while remaining ancillary to the dwelling-single on a site and is developed in a manner that avoids significant impact on the amenity of adjoining and nearby property; does not detrimentally impact on the natural environment and does not adversely impact on the local road network.

Administratively, the consent authority may consent to a dwelling independent that is not in accordance with sub-clause 5 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on the surrounding amenity.

Sub-clause 5 of Clause 5.4.13 states that the maximum floor area of the dwelling-independent in Zone RL (Rural Living) shall not exceed 80m². The floor area of the proposed dwelling-independent is 143.6m².

Administratively, the consent authority must also not consent to a dwelling-independent that is not in accordance with sub-clause 7 unless:

- (a) Documentary evidence that an existing wastewater management system does not comply or will not comply with the requirements of the Code of Practice for Wastewater Management as a result of the proposed dwelling-independent, is provided by:
 - i. A registered certifying plumber and drainer or certifying engineer (hydraulic)(for locations within declared building control areas under the provisions of the *Building Act 1993*); or
 - ii. A licensed plumber and drainer or hydraulic consultant (for locations where the *Building Act 1993* does not comply; and
- (b) It can be demonstrated by a site and soil evaluation report completed by an appropriately qualified site-and-soil evaluator that a wastewater management system complying with the requirements of the Code of Practice for Wastewater Management can be installed for the proposed development.

A variation to this clause is not considered appropriate in this instance, because the floor area of the proposed dwelling-independent greatly exceeds the maximum floor area allowed in Zone RL. With four bedrooms, a floor area of 143m² and a separate waste disposal system, the existing dwelling exceeds intention of the Scheme to provide for an auxiliary and subordinate second dwelling on a site.

The development, as proposed, is not consistent with the character of the locality, which mostly contains dwelling-single developments on similar sized allotments in a rural residential area. Dwelling-independent forms of development are common throughout the locality; however these are much smaller than the one proposed on this site and as such are consistent with the requirement to be an ancillary component to the dwelling-single. A development permit issued for a dwelling-independent with a floor area of 143.6m² and an independent waste disposal system could lead to an increase in the number of larger dwellings-independent

in the locality and as such place an unnecessary pressure on land capability and infrastructure in the rural areas.

3. 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.

No public submissions were received under section 49(1) of the *Planning Act 1999*.

4. 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.

With a lot size of 2 hectares, the subject land has the capacity to allow for a dwelling-independent, provided it meets the purpose and requirements of the zone and relevant clauses of the Scheme. The subject land is rectangular shaped, relatively flat and contains a small amount of vegetation. The land is developed with an existing dwelling-single with a shed and carport. Existing access from Dichondra Road will be retained.

The application has provided a Site and Soil Evaluation Report from a certified consultant that states an additional waste water management system installation can comply with the Code of Practice for Wastewater Management. The subject land is not affected by overlays relating to storm surge or flooding.

Additionally, the Department of Environment, Parks and Water Security did not identify or raise any issues of concern in relation to land capability.

5. 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.

No impacts on the existing amenity are foreseen as a result of this specific development. However, approval of dwelling-independents of this size is likely to have long term impacts on the amenity of the rural residential locality. Developments of this size and scale are capable of being tenancies on their own and increasing the floor areas of secondary dwellings could have negative implications on traffic, infrastructure and the character of the area.

ITEM 3
PA2022/0059

**CONCURRENT APPLICATION
REZONE FROM RL (RURAL LIVING) TO ZONE RR (RURAL RESIDENTIAL) &
SUBDIVISION TO CREATE FOUR LOTS
LOTS 1 & 2 (45 & 55) GIRRAWEE ROAD, HOWARD SPRINGS, HUNDRED
OF BAGOT**

APPLICANT

Cunnington Rosse Town Planning and Consulting

The applicant Gerard Rosse (Cunnington Rosse Town Planning and Consulting) attended.

**RESOLVED
74/22**

Pursuant to section 30P(1)(a) of the *Planning Act 1999*, the consent authority must make a preliminary decision that, if the Minister were to approve the amendment proposal to rezone Lot 1 (45) and Lot 2 (55 Girraween Road) Howard Springs, Hundred of Bagot that it would be likely to consent to the development under section 30W(1)(a) of the *Planning Act 1999*, conditionally for the purpose of a subdivision to create four lots 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 stormwater drainage system shall be submitted to and approved by 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.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer with attention to the modelling of the adjacent intersection at Girraween Road / Pickering Road divergence, and identifying any necessary upgrades to the surrounding street network to the requirements of the Litchfield Council, 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. All works recommended by the traffic impact assessment are to be completed to the requirements of the Litchfield Council to the satisfaction of the consent authority.
5. 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.

6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, electricity and telecommunication networks to the each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 2, 3 and 4 for further information.
7. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle corridors and streetscaping 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.
8. Before the use commences 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.
9. Prior to Part 5 certificate of compliance for subdivision being issued, the existing structures identified on the endorsed plans along the access to Lot 1 are to be removed, to the satisfaction of consent authority.

NOTES

1. 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/>
2. 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.
3. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
4. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to

discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>

5. 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.
6. 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).
7. 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 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
8. 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, Parks and Water Security.
9. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.

REASONS FOR RECOMMENDATION

1. Pursuant to sections 30P(2)(a) and (b) of the *Planning Act 1999*, the consent authority must take into account any planning scheme that applies to the land to which the application relates and the amendment proposal contained within the application.

The Northern Territory Planning Scheme 2020 (NTPS 2020) applies to the land and subdivision of land requires consent under Clause 1.8 (When development consent is required).

It is identified as Impact Assessable under Clause 1.8(1)(c)(ii), and therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan, Litchfield Subregional Land Use Plan are relevant to this application), zone purpose and outcomes of Clauses 4.6 Zone RR (Rural Residential), 6.3.1 (Subdivision in Zone RR) and 6.3.3 (Site Characteristics for Subdivision for Lots of 1ha or

Greater in Zones RR, RL, R and H, and Unzoned Land), need to be considered.

These clauses have been considered and it is found that the subdivision to create four lots complies with the relevant requirements of the NTPS 2020.

The applicant, Gerard Rosse, attended the meeting and spoke to the purpose of the application. Mr Rosse did not raise any concerns regarding the recommendation or the proposed conditions on the development permit.

The Authority noted that the subdivision proposal indicates that the structures along the access to proposed Lot 1 are to be removed and queried whether a condition could also be included which highlights requirements for the existing structure to be removed prior to the issue of a Part 5 clearance.

Mr Rosse confirmed he had no issues with the Authority including a condition on the development permit requiring that prior to Part 5 clearance being issued, the existing structures identified on the endorsed plans along the access to Lot 1 are to be removed, to the satisfaction of consent authority.

2. Pursuant of section 30P(2)(j) of the *Planning Act 1999*, the consent authority must take into account the capability of the land to support the development proposal and the effect of the proposal on the land, and on other land, the physical characteristics of which may be affected by the proposal.

The Land Suitability Assessment submitted with the application does not identify any land constraints occurring within the site.

The Department of Environment, Parks and Water Security (DEPWS) did not raise any adverse land capability issues associated with the proposal; however, DEPWS did advise that groundwater would not be available to support the proposed subdivision, noting over-allocation and sustainability concerns of the existing underground water resource.

The requirements of Clause 6.3.1 Subdivision in Zone RR (Rural Residential) prohibits the consent authority from consenting to a subdivision in this zone if each new lot cannot demonstrate a reliable water supply. The applicant advised and it has been confirmed that reticulated water supply is available and that each lot will be connected to reticulated water. This addresses the groundwater sustainability comments raised by DEPWS, as, without a connection to reticulated water, the subdivision cannot be approved.

3. Pursuant to Section 30P(2)(l) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the public

utilities or infrastructure provided in the area in which the land is situated and any requirement for public facilities and services to be connected to the land; and facilities, infrastructure or land to be provided by the applicant.

Power and Water Corporation has confirmed that reticulated power and water services are available in the area and the developer's intention to connect to these services.

The land suitability assessment indicates that soils on the site are suitable for the on-site absorption of effluent without detriment to the environment and in particular, to ground and surface waters.

4. Pursuant to Section 30P(2)(m) 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 subdivision is consistent with purpose and outcomes of the zone and the development requirements of the NTPS 2020, in providing for appropriate lot configuration, connection to reticulated services and demonstration that the land is capable of supporting the proposed subdivision. On this basis, the proposed subdivision is not expected to impact on the amenity of the locality.

FOR: 5

AGAINST: 0

ABSTAIN: 0

**RESOLVED
75/22**

Pursuant to section 30Q of the *Planning Act 1999*, the consent authority report to the Minister for Infrastructure, Planning and Logistics advising of the likely decision in relation to the development proposal, issues raised in the submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the amendment proposal.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Report to the Minister

**RESOLVED
76/22**

That, pursuant to section 86(1) of the *Planning Act 1999*, the Development Consent Authority delegates its powers to the Chair or in the absence of the Chair any member of the Litchfield Division of the Authority to:

- determine pursuant to Section 30W(1)(a) to consent to the development proposal contained in the concurrent application and consent to the concurrent application after receipt of a notice under Section 30U(1) that the Minister has approved the amendment proposal contained in the application;
- issue a development permit under section 54(1) in relation to the development proposal to develop Lot 1 (45) and Lot 2 (55 Girraween Road) Howard Springs, Hundred of Bagot for the purpose of a subdivision to create 4 lots; and

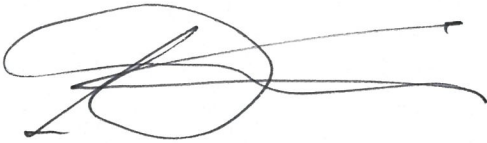
- issue the relevant notices under Section 30Y.

FOR: 5

AGAINST: 0

ABSTAIN: 0

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



KEITH AITKEN
Chair

18.8.22