



## **DEVELOPMENT CONSENT AUTHORITY**

### **LITCHFIELD DIVISION**

### **MINUTES**

**MEETING NO. 285 – WEDNESDAY 13 DECEMBER 2023**

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

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

**APOLOGIES:** Adam Twomey

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), George Maly and Ben Wollinski  
(Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Perupkar Singh

**Meeting opened at 11.00 am and closed at 11.20 am**

## Litchfield DCA Meeting No 285 – Wednesday 13 December 2023

THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1  
PA2022/0318

### SUBDIVISION TO CREATE FOUR LOTS

SECTIONS 1854 (1210) STUART HIGHWAY AND 3015 (30 ) GULNARE ROAD, BEES CREEK, HUNDRED OF STRANGWAYS

APPLICANT

Earl James and Associates

Applicant Kevin Dodd (Earl James and Associates) attended.

RESOLVED  
75/23

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 Section 1854 (1210) Stuart Highway, Hundred of Strangways and Section 3015 (30) Gulnare Road, Hundred of Strangways for the purpose of subdivision to create three lots subject to the following conditions:

### GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing numbered 2022/0318/1 endorsed as forming part of this permit.
2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, electricity and telecommunication networks to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to Notations on this permit numbered 1 to 3 for further information.

3. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Litchfield Council and the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
4. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Litchfield Council and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
5. 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. Information resources are available on the IECA website [www.austieca.com.au](http://www.austieca.com.au) and the Department of Environment, Parks and Water Security 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.

6. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
7. 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.

**NOTES:**

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto: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. 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](http://www.infrastructure.gov.au/tind)
3. 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/buildersdesigners.html>
4. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>

## Litchfield DCA Meeting No 285 – Wednesday 13 December 2023

5. For the purposes of best practice land management and environmental protection it is recommended that a Type 1 Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
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](mailto:surveylandrecords@nt.gov.au) 08 8995 5354. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
7. 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.
8. A "Permit to Work Within a Road Reserve" may be required from the Transport Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve.
9. All land in the Northern Territory is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection.  
  
Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to [weedinfo@nt.gov.au](mailto:weedinfo@nt.gov.au)
10. A groundwater extraction licence may be required under the *Water Act 1992* for any bore used for purposes other than rural stock and domestic water supply. For advice on water extraction licences please contact the Water Licensing and Regulation Branch of the Department of Environment, Parks and Water Security.
11. Power and Water Corporation (Water Services) advise the developer is required to engage a Hydraulic Consultant, and undertake any required

works, at their own cost. Works required need to occur in consultation with the Water Development team at Power and Water Corporation.

## **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 Northern Territory Planning Scheme 2020 applies to the land and a subdivision to create three lots, requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(c)(ii), therefore the strategic framework (Part 2 of the Scheme, including the Litchfield Subregional Land Use Plan 2016), Overlays (Part 3) clauses 3.2 (Clearing of Native Vegetation) and 3.6 (Land Subject to Flooding), zone purpose and outcomes (Part 4) of clauses 4.7 (Zone RL – Rural Living), and subdivision and consolidation requirements (Part 6) clauses 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land), 6.3.3 (Site Characteristics for Subdivision for Lots of 1ha or Greater in Zones RR, RL, R and H, and Unzoned Land), 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land), 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 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land), because the proposal will result in one lot smaller than the minimum lot size requirement.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), sub-clause 5, of the Northern Territory 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).

Under Clause 1.10(4) (Exercise of Discretion by the Consent Authority), "In considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:

- (a) any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;
- (b) any Overlays and associated requirements in Part 3 that apply to the land;
- (c) the guidance provided by the relevant zone purpose and outcomes in Part 4, or Schedule 4.1 Specific Use Zones; and
- (d) any component of the Strategic Framework relevant to the land as set out in Part 2.

### Part 2 – Strategic Framework

#### The Litchfield Subregional Land Use Plan 2016

## Litchfield DCA Meeting No 285 – Wednesday 13 December 2023

The Litchfield Subregional Land Use Plan (LSLUP) is a referenced document in the Northern Territory Planning Scheme and provides detailed planning specific to the Litchfield subregion and land use concept plans to guide development. The LSLUP includes land use policy that provides opportunities for urban growth in both the short and long term, whilst supporting the rural land uses and environment and respecting cultural heritage.

The LSLUP identifies the site is within a 'Rural Area'. A statement of policy for rural areas is to maintain rural amenity and lifestyle choice. Require reliable water supply adequate for residential use. Require stormwater drainage for new residential development to not adversely impact on the receiving environment. Require residential subdivision to provide roads and infrastructure to the requirements of the responsible authorities.

The subdivision creates an additional rural lot which can be connected to power and water services. The proposal was also able to demonstrate the land is capable of supporting the subdivision with all lots having at least 1ha of unconstrained land.

There is an existing creek that traverses the land. The natural slope of the land drains stormwater toward the creek and the subdivision does not change the existing stormwater flow regime. There are established roads which allow access from the public road network to each proposed lot, with each lot demonstrating that there is unconstrained access to the unconstrained area of land.

### Part 3 – Overlays and Part 4 – Zone Purpose and Outcomes

No overlay applies to the subdivision area. The site is zoned RL (Rural Living). The purpose of Zone RL is to provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.

An assessment of the subdivision against Part 4 zone purpose and outcomes of Zone RL (Rural Living) found that the subdivision will create lots of a size and configuration generally anticipated for the intended zones and uses.

The subdivision design is informed by the land suitability assessment and demonstrates the proposed lots are able to support residential development. The subdivision layout is of a pattern of development that is found through the region and is considered sympathetic to the existing streetscape, scale and character of the area.

### Part 6 – Subdivision and Consolidation requirements

The subdivision generally complies with clauses 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land), 6.3.3 (Site Characteristics for Subdivision for Lots of 1ha or Greater in Zones RR, RL, R and H, and Unzoned Land), 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land). A non-compliance has been identified against clause 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land).

Clause 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land).

The purpose of this clause is to ensure subdivisions of rural and unzoned land:

- (a) have lots that are of a size and configuration suited for the intended purpose;
- (b) have lots that are of a size consistent with the topographical constraints of the land (that may dictate that lots are of an area in excess of the specified minimum; and
- (c) do not impose unsustainable demands on groundwater or unreasonably degrade the environment.

Subclause 5 requires land to be subdivided in accordance with table 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land). The table identifies that lots in Zone RL requires lots to be 2ha with a minimum of 1ha of unconstrained land. An assessment of each lot identified that proposed Lot C does not comply as the lot size is 1.96ha.

In accordance with subclause 1, the consent authority may consent to a subdivision in Zone RL that is not in accordance with the minimum lot size specified in table 6.3.2 only if:

- (a) the subdivision does not result in an increase lot yield; and
- (b) the reduced lot size achieves at least one of the following:
  - i. an existing boundary encroachment by a building is remedied.
  - ii. the lots created are more regular in shape.
  - iii. access is provided to a lot that previously had no access or an unsuitable access.
  - iv. the subdivision will better meet the overall outcomes for the zone and the relevant components of the strategic framework applicable to the locality.
  - v. the arrangement of lots results in a significant protection of areas of environmental value, or
  - vi. provides opportunity for a future local road network, and
- (c) the consent authority is satisfied that the lots created will be consistent with the purpose of this requirement and the zone purpose and outcomes.

The Authority is satisfied that: the reduction in lot size, for Lot C, does not result in the ability to increase the lot yield of the proposal; The reduced lot size is consistent with the size and layout of neighbouring lots to create a regular subdivision pattern, and; the Authority is satisfied that the proposal is consistent with requirements of zone RL (Rural Living) purpose and outcomes as identified above.

3. 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.

## Litchfield DCA Meeting No 285 – Wednesday 13 December 2023

The land has been assessed and is capability of to support the proposed development. The land is not identified as being affected by drainage, slope, seasonal inundation, land units, soil characteristics, heritage constraints or easements.

The site has access to reticulated power and water services and the Land Suitability Assessment identifies the capability to provide an onsite effluent disposal system. The Department of Environment Parks and Water Security (DEPWS) have confirmed that each lot contains at least 1 hectare of unconstrained land and the site is not constrained by soil drainage. DEPWS also did not raise concerns regarding the use of an onsite effluent disposal system on the proposed lots.

DEPWS did raised concerns regarding the groundwater resources being over-used and the statutory right to take groundwater for domestic purposes. However, Power and Water Corporation have confirmed that water can be accessed from the DN300 MSCL water main in the Stuart Highway road reserve to support the capability of the land.

4. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The proposal, generally accords with the Litchfield Subregional Land Use Plan 2016 and is considered that future residential development on the proposed lots are unlikely to adversely impact the area or alter community expectations for the site. The proposed lot sizes and subdivision density are expected in the area and the lots can achieve appropriate levels of residential amenity.

**FOR: 4**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Consent and Development Permit

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

**SUZANNE PHILIP**

**Chair**

14 December2023