



DEVELOPMENT CONSENT AUTHORITY

PALMERSTON DIVISION

MINUTES

MEETING No. 257 – FRIDAY 10 MARCH 2023

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

MEMBERS PRESENT: Suzanne Philip (Chair), Trevor Dalton, Monica Baumgartner, Sarah Henderson and Athina Pascoe-Bell

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Sally Graetz and Daniel Herlihy (Development Assessment Services)

COUNCIL REPRESENTATIVE: Peter Lander

Meeting opened at 10.00 am and closed at 10.35 am

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 **SUBDIVISION TO CREATE 43 LOTS (DURACK HEIGHTS STAGE 11)**
PA2022/0463

APPLICANT **LOT 14473 ROYSTONEA AVENUE, DURACK, TOWN OF PALMERSTON**
Cunnington Rosse Town Planning and Consulting

Applicant – Brad Cunnington (Cunnington Rosse Town Planning and Consulting) attended.

RESOLVED That, pursuant to section 53(a) of the *Planning Act 1999*, the Development
06/23 Consent Authority consent to the application to develop Lot 14473, Roystonea Avenue, Town of Palmerston for the purpose of a subdivision to create 43 lots (Durack Heights Stage 11), subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to 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 more clearly show the Stage 11 area extent and its inclusions (including any relevant notations), such that the 'future stormwater area' and its contribution to open space and 'future stages' are removed or excluded.
2. Prior to commencement of works (including site preparation), engineering design reports, plans, and specifications for landscaping and open space, proposed and affected roads, vehicular access and parking, stormwater drainage, pedestrian/ cycle corridors, crossings and access points and street lighting, are to be submitted to and to the technical standards of the City of Palmerston, to the satisfaction of the consent authority.
3. Prior to commencement of works, an updated water and sewer infrastructure master plan and design report (with supporting technical documentation) for the entire Durack Heights development is required. The master plan and design report is to be to the technical requirements and satisfaction of Power and Water Corporation.
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, Parks and Water Security Erosion and Sediment Control Plan (ESCP) procedures as updated (see note 1). The ESCP must be certified by a Certified Professional in Erosion and Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP must 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 owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, 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 1, 2, and 3 for further information.
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.
8. 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 City of Palmerston and/or Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (where relevant), to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
9. All works relating to this permit must be undertaken in accordance with the accepted Type 2 Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority. Should the accepted Type 2 Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be certified by a Certified Professional in Erosion and Sediment Control (CPESC) 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 10 below. At completion of works, clearance should be sought from the Department of Environment, Parks and Water Security 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. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Palmerston and the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.

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12. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
13. Any proposed work (including the provision or connection of services) within, or impacting upon the Tiger Brennan Drive or Roystonea Avenue road reserve are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of the Department of Infrastructure Planning and Logistics. Drawings must be submitted to the Transport and Civil Services Division of the Department of Infrastructure Planning and Logistics, for approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
14. The developer shall have carried out, as part of stage 11 works, and in accordance with AS3671-1989, "Acoustics – Road Traffic Noise Intrusion – Building Siting and Construction" an assessment by a suitably qualified person of the development's present and predicted future exposure to road traffic noise levels, and where required provide appropriate noise attenuation measures to the satisfaction of the Authority. All noise attenuation works deemed necessary shall be carried out by and at the full cost of the developer and shall be wholly contained (including foundations) within the subject lot.
15. No temporary access for construction purposes shall be permitted from the Tiger Brennan Drive or Roystonea Avenue road reserves. Construction and delivery vehicles shall not be parked on the Tiger Brennan Drive or Roystonea Avenue road reserves.
16. Upon completion of any works within or impacting upon the Stuart Highway road reserve, the road reserve shall be rehabilitated to the standards and requirements of the Department of Infrastructure, Planning and Logistics.
17. The developer should implement necessary measures to ensure mosquito breeding does not occur during the construction phase of the development, to the requirements of the Top End Health Services, 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.

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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
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/builders-designers.html>
4. All new roads, including alterations and extensions to existing roads, are required to be named under the *Place Names Act 1967*. You should immediately make application to the Place Names Committee to commence the road naming process. Contact the Place Names Unit on 8995 5333 or place.names@nt.gov.au. Further information can be found at www.placenames.nt.gov.au
5. A "Permit to Work Within a Road Reserve" may be required from City of Palmerston and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve.
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 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
7. 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

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8. 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 89364070 to determine if the proposed works are subject to the Act.
9. 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/>
10. Department of Environment, Parks and Water Security Erosion and Sediment Control Plan (ESCP) procedures as updated available at <https://depws.nt.gov.au/rangelands/technical-notes-and-factsheets/land-management-technical-notes-and-fact-sheets>. 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, 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 Development Coordination Branch: (08) 8999 4446.

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 2007 applies to the land. The land is within Zone SP8 which establishes specific controls for the subdivision and development of land within its boundaries. As the application proposes subdivision, Clauses 1 (Purpose), 2 (Development Design Philosophy), 3 (Subdivision) and 4 (Lot Size and Configuration) of Zone SP8 are applicable. Clause 2.4 (Specific Use Zones) applies and directs that '*despite anything to the contrary in this Planning Scheme, land described in Schedule 1 (Specific Use Zones) may be used or developed as specified in the Schedule subject to any conditions specified in the Schedule and any further conditions imposed by the consent authority*'. It further clarifies that '*the provisions of Parts 1, 2, 4, 5, 7 and 8 apply to development described in Schedule 1 except where they conflict with any conditions specified in that Schedule.*' Having considered these directions, Clauses 11.2.1 (Site Characteristics in Residential Subdivision) of Part 5 is considered to apply, with the remaining requirements either not applicable

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due to the nature of the proposal, or in conflict with requirements specified with Zone SP8.

The above mentioned clauses were considered and the proposal assessed as compliant.

The proposed design is consistent with the overarching design principles expressed in the masterplan and provides a layout generally consistent with that shown in master plan documents referenced under clause 2.7 of the NT Planning Scheme. A change to the road layout has occurred, but is considered to still align with the vision of the masterplan.

The subdivision includes creation of 43 lots (42 residential lots and 1 public open space lot) to form Stage 11 of the existing Durack 'The Heights' development, with the application including the necessary design documents detailing proposed land uses and minimum building setbacks required by Zone SP8. Lots range in size from 403m² to 773m², with three housing typologies (which specify different minimum building setbacks) proposed across the stage, thereby achieving the requirement to provide for a range of housing sizes and designs.

Clause 11.2.1 (Site Characteristics in Residential Subdivision) seeks to '*ensure that residential subdivisions respond to the physical characteristics of the land.*' It establishes requirements which prevent development of excessively sloped, unstable or unsuitable soils (e.g. water logged) and, of relevance to this application, seeks to 'ensure, by site selection or site grading, that areas intended for lots less than 600m² do not slope in excess of 2%, such that the need for on-site stormwater structures, retaining walls and the like is minimised. The land has a gradual slope from north to south with the design managing areas of sloping land by incorporating steeper sections within larger lots of more than 600m², as intended by the clause, and through grading of smaller lots to generally achieve levels of 1-1.5%. Some steeper gradients are noted as occurring on Lots 514-518, 521-523 and 529-230 and grade changes between lots managed via 'short and sharp' 1:1 batters along property boundaries. Advice from the applicant is acknowledged that lot fill will be certified construction fill, graded and compacted, with the eventual treatment of the grade changes to be determined by future land owners. The overall areas intended for lots of less than 600m² do not slope in excess of 2% as required, with the design therefore considered to comply with the clause. Preservation of these site treatments may be assured through the minimum building setback control of the specific use zone and as shown on the housing typology drawings, which cannot currently be varied to enable, for example, homes with zero lot line arrangements.

Precedent conditions have been applied to address remaining unresolved matters including clarification of staging boundaries and inclusions and reference to future works on the submitted plans, together with additional information or materials sought by service authorities.

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

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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.

No land capability concerns were identified under assessment or by service authorities and the land is therefore considered capable of supporting the proposed subdivision.

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 application is for Stage 11 of the Durack 'The Heights' subdivision. The development will result in previously undeveloped land adjacent to residential properties being altered, which is likely to result in amenity disturbance either while construction is occurring or through physical change to the area (traffic, additional residential noise etc.). The current design is however consistent with the design objectives and requirements of Zone SP8, including masterplan documents for the broader estate, together with the applicable Part 5 clauses of the NT Planning Scheme 2007, with a similar subdivision design having been approved in 2017. The development is therefore considered to be a reasonably anticipated progression of the existing subdivision with any unreasonable amenity impacts unlikely or manageable through conditions of approval.

FOR: 5

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 March 2023