



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING NO. 294 – WEDNESDAY 20 NOVEMBER 2024

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

MEMBERS PRESENT: Suzanne Philip (Chair), Adam Twomey, Emma Sharp and Rachael Wright

APOLOGIES: Rick Grant

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), George Maly, Rhiannon Martin and Lachlan Linkson (Development Assessment Services)

COUNCIL REPRESENTATIVE: Jaimie O'Connor and Rob Taylor

Meeting opened at 11.30 am and closed at 2.45 pm

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
PA2024/0168

**SUBDIVISION TO CREATE 4 LOTS
SECTION 785 (765) SPENCER ROAD, DARWIN RIVER, HUNDRED OF
CAVENAGH**

APPLICANT Cunnington Rosse Town Planning and Consulting

Applicant Gerard Rosse (Cunnington Rosse Town Planning and Consulting) attended.

Submitters: Bev Shuker and Gerard French attended.

Submitters who sent an apology: Heather Young and Hek Shuker

Interested Party who attended Jegayn Ford who lives in the area.

**RESOLVED
62/24**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 785 (765) Spencer Road, Hundred of Cavenagh for the purpose of a subdivision, to create 4 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 Litchfield Council's stormwater drainage system shall be submitted to and approved by Litchfield Council.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawing numbered 2024/0168/1, endorsed as forming part of this permit.
3. 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.
4. 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.
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.

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6. The kerb crossovers and driveways to the lots approved by this permit are to meet the technical standards of the Litchfield Council to the satisfaction of the consent authority.
7. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, vehicular access, pedestrian/ cycle corridors, and streetscaping shall be to the technical requirements and approval of Litchfield Council, with all approved works constructed at the developer's expense.
8. Before the completion of the subdivision, the applicant 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. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity and telecommunications to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
10. Before the issue of titles, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority in accordance with the requirements of the *Bushfires Management Act 2016*.

NOTES

1. For the purposes of best practice land management and environmental protection it is recommended that an Erosion and Sediment Control Plan (ESCP) be developed. 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.
2. Should there be any doubt in relation to the Developer Contributions payable, reference is made to Section 71 of the *Planning Act 1999*.
3. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au
4. 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.
5. Department of Lands, Planning and Environment advises that Typhonium Praetermissum has been identified as potentially occurring within and outside of Lot 785 (765) Spencer Road, Hundred of Cavenagh. The Department recommends a survey be undertaken by a suitably qualified professional with experience in surveying for cryptic threatened plant species, at an appropriate time of year, to identify T. Praetermissum habitat and where required amend the subdivision works so as to avoid disturbance to this threatened plant species.

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 land, being, Lot 785 (765) Spencer Road, Hundred of Cavenagh, is zoned R (Rural). The NT Planning Scheme 2020 (NTPS 2020) applies to the land and a 4 Lot 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), therefore the relevant Strategic Framework, Clause 3.2 (Clearing of Native Vegetation), Clause 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R And H), 6.3.3 (Site Characteristics for Subdivision for Lots of 1ha or Greater in Zones RR, RL, R and H and 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land) need to be considered.

The consent authority noted the assessment of the NTPS2020 completed by Development Assessment Services (DAS), which concludes that application complies with the relevant requirements of the NTPS 2020 and is discussed below.

2. 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.

Two submissions were received during the exhibition period from Bev and Hek Shuker and Gerard French and Heather Young under Section 49 of the *Planning Act 1999* with respect to the proposal. The submissions focused on the following issues:

- (a) The degradation of roads as a result of increased traffic loading.
- (b) The ongoing upkeep of the roads being conducted by residents rather than the responsible authority.
- (c) The potential for overuse of natural ground water systems to service the proposed lots with water.
- (d) Issues with stormwater run-off being exacerbated.
- (e) Loss of amenity and impacts on rural lifestyle.

Jegayn Ford, owner of Section 772 (770) Spencer Road, Hundred of Cavenagh did not provide a submission under Section 49 but attended the meeting as an interested party. Mr Ford lives opposite the site and agrees with the concerns of the other neighbours. He moved to Darwin from Canberra so he would not have any close neighbours and objects on the basis the development will bring more people into the area. Mr Ford also has concerns regarding the local road which is not maintained and considers the road could not cope with additional traffic resulting from this proposed development. Mr Ford also raised concerns regarding potential for surface water runoff and waterlogging being worsened by land clearing from this proposal.

The consent authority carefully considered the comments of submitters but noted that the land is zoned to allow allotments of a minimum size of 8

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hectares (refer Clause 6.3.2 NTPS 2020). The proposal is for four lots, all well over the minimum size - 30.93 Ha (Lot 1), 11.07 Ha (Lot 2), 11.08 Ha (Lot 3) and 11.94Ha (Lot 4). Further, the DAS report concluded that the proposal was fully compliant with the subdivision requirements contained in Part 6 of the NTPS2020. The consent authority noted that the land suitability assessment provided with the application confirms that groundwater systems can support the development, as subsequently corroborated by former Department of Environment, Parks and Water Security (DEPWS) upon inspection. Natural stormwater drainage channels will be retained and the subdivision has been designed to reflect this. While acknowledging the concerns of the submitters in respect of amenity impacts on their rural lifestyle, the consent authority considered the risk to rural lifestyle in the surrounding areas through the addition of three allotments in this locality as being relatively low. The consent authority noted the submitter's concerns in respect of the road network but considered that the impact of the additional allotments was insufficient to conclude that the compliant subdivision should not proceed.

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.

The consent authority considers that the land can support the proposal. The applicant has provided a land suitability assessment which is generally supported by former Department of Environment, Parks and Water Security (DEPWS), although its Report notes that there may be an "unknown" risk to a threatened plant, *Typhonium praetermissum*. Representatives of the Department were invited to the meeting to clarify these concerns but did not attend. In the absence of further clarification by the DEPWS, the consent authority noted the comments of the applicant at the meeting and concluded that there was insufficient evidence to suggest that the impact of an "unknown" risk to *Typhonium praetermissum* was such that the land could not support the proposed development and declined to impose a condition in that regard.

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated, the requirement 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 Litchfield Council requested road upgrades to the relevant sections of Spencer Road and Boundary Road as well as a monetary contribution for the upgrade of local infrastructure in accordance with the Litchfield Council's development contribution plan.

It was apparent to the Authority from comments made by the applicant and the Council representatives that there was a misunderstanding between the

parties as to the Council's requirements. The applicant argued that the reason for establishing the development contribution plan was to provide for infrastructure, which includes roads. Requiring both the upgrade of 2 public roads and a monetary contribution was beyond what could be considered reasonable. The cost of upgrading the roads directly abutting the site boundaries was considerable and beyond what could be justified for a four lot subdivision which was fully compliant with the subdivision requirements of the NTPS 2020.. The consent authority notes that NTPS 2020, Clause 6.3.3.4 requires, that each lot is to have "unconstrained access from a public road to the identified unconstrained land". That requirement is fully met.

At the Litchfield Division of the Development Consent Authority meeting held on 20 November, the Litchfield Council advised that Spencer Road is a registered asset and Boundary road is just an unmade 'paper road' corridor and further requested two additional conditions for approval, stating that Council's support for the proposal is premised on the conditions requested being included in any permit granted. The conditions broadly stipulated that upgrades to the roads fronting the allotment were required as only sections of Spencer Road was maintained by the Council whilst the 'Boundary' Road had not been constructed and was not maintained because it had limited use. The Authority acknowledged that some sections of road had been maintained by Shukers whilst another smaller section is not been formally maintained by the Council. The Authority also noted that Boundary Road was not constructed and that the applicant offered to construct sections the road where necessary to accommodate the direct access to the proposed allotments from the existing road network, if the contribution fee was waived.

The Authority also further noted, that the relevant section of Spencer Road had been formally opened and vested in Council ownership but maintained by local residents and the applicant had therefore a right to connect to the road and a right to only construct an access to each lot from the corridor.

The Council suggested that the cost to the developer of constructing the road upgrade may be offset against the monetary contribution under the Litchfield Council's development contribution plan but could give no guarantees that such an offset would be approved either in whole or in part by the Council. The applicant indicated that the cost of road construction would far exceed the amount of contribution and was not warranted by a 4 lot subdivision.

In noting these issues and the fact that no internal roads are necessitated by the proposed subdivision, the Authority resolved to not impose a requirement for upgrades to the public roads and instead resolved to impose a standard condition requiring kerb crossovers and driveways to meet the technical standards of the Litchfield Council and a standard condition requiring a monetary contribution for the upgrade of local infrastructure. Those conditions meet the requirements of the NTPS 2020.

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The Authority considered that there is a well-established body of law concerning the scope of power to impose conditions on a development under planning legislation. While the discretion is wide, it is circumscribed by the subject matter of planning, and therefore must be for a planning purpose and involve a fair and reasonable nexus to the subdivision of development: *Western Australian Planning Commission v Temwood Holding Pty Ltd* (2004) 221 CLR 30.

The concept of a condition being a quid pro quo for subdivision or development is not acceptable and to satisfy the nexus test, a condition must be capable of being justified by reference to the consequences of the subdivision or development if the condition were not imposed. The connection between the anticipated adverse consequence, and its alleviation by means of the condition, must be established as a matter of fact. In this case, the Authority did not consider there was a sufficient nexus demonstrated between the four-lot subdivision and the need to upgrade two public roads to support the Council's requested conditions. The Authority noted that the Council's position that without the requested condition for a road upgrade, it could not support the development. However, the Authority considered that such conditions were not a valid exercise of its power.

The Authority did not consider that the Council's request for a condition precedent, mandating the completion of a traffic impact assessment and road surfacing of Spencer and un-named ('Boundary') road prior to the subdivision being completed, could be supported. The road corridors are subject to the Council's control and any separate agreement between the Council and the applicant in that regard can be incorporated into the Council's Capital Works Program but are not appropriate subject matter for the development permit.

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.

While the resident's concerns over this proposal are recognised, the addition of three allotments is unlikely to impact on the amenity of the locality.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2024/0210**

TRANSPORT TERMINAL

**SECTION 2345 (2815) STUART HIGHWAY, ACACIA HILLS, HUNDRED OF
CAVENAGH**

APPLICANT

Cunnington Rosse Town Planning and Consulting

Pursuant to section 97 of the *Planning Act 1999*, Emma Sharp and Rachael Wright, Community Members of the Litchfield Division of the Development Consent Authority disclosed an interest in relation to Item 2.

Pursuant to section 97(5) of the *Planning Act 1999*, the Chair determined that Emma Sharp and Rachael Wright's interest or relationship was not significant or

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relevant, and both were permitted to form part of the quorum and participate in determination of this item.

Applicant:- Brad Cunnington (Cunnington Rosse Town Planning and Consulting), Doug Sallis (Landowner), Dean Larsen, Noelene Chellingworth and Sebastian Robinson (Director, Arnhem Helicopters) attended.

Mr Cunnington tabled photo of an example of a fuel storage facility capable of holding 10000 litres of aviation fuel as an example of the look and scale of the proposed (single tank) fuel storage. Mr Cunnington also tabled multiple extra supporting and opposing submissions to the proposal obtained during previous consultation.

Submitters in attendance: Angela Finn-Smith, Brett Penn-Dennis, Corrine Delaney, Diana Rickard, Greg Chapman, Kenneth Melville, Priscilla Terry and attended via Teams Shannon Tanner.

Submitter who sent an apology: Jackie Dennis.

Interested party in attendance: Roslyn Delaney.

**RESOLVED
63/24**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 2354 (2815) Stuart Highway, Acacia Hills to construct a helicopter hangar for purposes of minor servicing of helicopters, agricultural and emergency services support and ancillary administration, 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 show:
 - a) A landscaping plan for the area identified for "Seeding/Seeding area" as shown on the plan number 2/4 dated 7 November 2024.
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's 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. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
3. Prior to the commencement of works, a traffic management plan for the construction phase of the development shall be submitted to and approved by the Litchfield Council. The plan must address traffic control and haulage routes proposed for the development, to the satisfaction of the consent authority.

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4. Prior to the commencement of the use, an Operational Management Plan (OMP) shall be prepared, to the satisfaction of the consent authority, covering the full extent of the proposed use. When approved, the OMP will be endorsed and will then form part of the permit. The OMP must be generally in accordance with the plans submitted with the application and include the following information:
 - a) A copy of the permit and endorsed plans.
 - b) The number and type of aircraft on site at any one time, the number to not exceed 4 aircraft.
 - c) Hours of operation of the use (including helicopter engine warm up and cool down periods, take-offs and landings and helicopter servicing) limited to 7am-6pm on weekdays and 8am-6pm on weekends, with the exception of flights made for emergency purposes.
 - d) A diagram showing approved flight paths.
 - e) The location and total capacity of flammable liquids storage for the purposes of the approved use (which is not to exceed 10,000 litres) meeting all relevant Australian and NT EPA Standards.

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. There shall be no more than three (3) helicopter movements per day.
5. All helicopter movement shall be 7am-6pm on weekdays and 8am-6pm on weekends.
6. Landing and departure flights paths shall be in accordance with the endorsed plans.
7. Noise levels associated with the use must comply with the recommended requirements and in accordance with the *Waste Management and Pollution Control Act 1998*.
8. There shall be no direct access to/from the Stuart Highway from the subject land for vehicles associated with this transport terminal, including construction vehicles.
9. 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.

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10. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a) constructed;
 - b) properly formed to such levels that they can be used in accordance with the plans;
 - c) surfaced with a compressed gravel to minimise dust generation;
 - d) drained;
 - e) line marked to indicate each car space and all access lanes; and
 - f) clearly marked to show the direction of traffic along access lanes and driveways;
 - g) to the satisfaction of the consent authority.Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
11. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the occupants of the development and their (visitors/ clients).
12. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
13. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
14. The owner of the land must enter into agreements with the relevant authorities for the provision of water and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
15. 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 the Litchfield Council to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
16. All proposed works impacting on Affleck Road 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 Litchfield Council. Drawings must be submitted to the Litchfield Council, for approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
17. No temporary access for construction purposes shall be permitted from the Stuart Highway Road reserve. Construction and delivery vehicles shall not be parked on the Stuart Highway Road reserve.

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18. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
 - a) so as not to create sun or headlight reflection to motorists; and
 - b) be located entirely (including foundations and aerially) within the subject lot.Advertising signage, either permanent or temporary, e.g. 'A' frame, vehicle or trailer mounted shall not be erected or located within the Stuart Highway Road reserve.
19. Before the use or occupation of the development, certification is to be provided by an appropriately qualified site and soil evaluator that any new on-site wastewater management system has been installed by a qualified licensed Self-Certifying Plumber and complies with the NT Code of Practice for Wastewater Management.
20. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a) transport of materials, goods or commodities to or from the land
 - b) appearance of any building, works or materials
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - d) presence of vermin

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. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (EoI) form via email to remotedevelopment@powerwater.com.au
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. Fees may apply.
3. Any new on-site wastewater management system is to be installed in accordance with the Code of Practice for Wastewater Management.
4. 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

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Environmental Duty under Section 12 of the Act. There is also a 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 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.

5. 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

6. The permit holder is advised that it is an offence to disturb or destroy prescribed archaeological places without consent under the *Heritage Act 2011*. Should any heritage or archaeological material be discovered during the clearing operation, cease operation and please phone Heritage Branch of the Department of Lands, Planning and Environment.
7. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
8. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the *Northern Territory Building Act 1993* before commencing any demolition or construction works.
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

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by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.

10. The clearing and future use of the land shall not be detrimental to the drainage, flood immunity or safety of the Stuart Highway Road reserve through the blocking of off let drains, natural drainage channels or overland land flow.

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 application was lodged and exhibited as a 'transport terminal'. The consent authority noted the assessment report prepared by Development Assessment Services including the assessment of the proposal against the requirements and specific provisions of this defined use. The consent authority did not consider the proposal constituted a transport terminal and determined that the use is undefined. The Authority concluded that the application did not meet the definition of "transport terminal" for the purposes of Schedule 2 of the Northern Territory Planning Scheme 2020 (NTPS 2020) as helicopters and aircraft cannot be considered "vehicles" for the purpose of the relevant definition. However, the consent authority considered that the application was for a helicopter hangar for purposes of minor servicing of helicopters, agricultural and emergency services support, and ancillary administration, a use which is undefined by the NTPS 2020.

The NT Planning Scheme 2020 (NTPS2020) applies to the land and a use not defined in Schedule 2 of NTPS2020 requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(1)(c)(i), therefore the strategic framework (Part 2 of the Scheme, including the Litchfield Subregional Land Use Plan 2016, an overlay at Clause 3.2 CNV (Clearing of native vegetation), zone purpose and outcomes of Clause 4.21, Zone R (Rural), and Clause 5.2.1 (General height control), Clause 5.2.4.1 (Carparking spaces), Clause 5.2.4.4. (Layout of carparking spaces), Clause 5.2.5 (Loading bays), clause 5.2.6.1 (Landscaping in zones other than zone CB) and Clause 5.7.3 (Transport terminal in zones R and H), need to be considered for guidance.

These clauses have been considered and it is found that the proposal is generally consistent with the relevant requirements of the Planning Scheme.

2. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into account any submissions made under Section 49, and any evidence under Section 50, in relation to the development application.

A total of 14 public submissions were received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal. All of the submissions objected to the proposed development.

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Due to the number and nature of the responses received, the submissions have been summarised. The key comments and concerns related to the following:

- Noise/vibration/flight path impacts, disrupting the tranquillity of the area and impacting on local equestrian activities and livestock.
- Privacy impacts.
- Inadequate setbacks.
- General local amenity impacts.
- Incompatibility with the rural zoning and residential character of the area.
- Concerns regarding intensity of the use / potential future intensification.
- Devaluation of property.
- Impacts on Stuart Highway.
- Environmental relating to increased traffic / pollution and impacts on wildlife.
- Inconsistencies and inadequacies in the information submitted as part of the application.
- Exhibition signs not being appropriately located.
- Concerns regarding the monitoring / enforcement of flight movements.
- That the proposal would be better located in a different area, i.e., existing airstrip or an industrial area.
- Potential for helicopter crashes.
- Concerns regarding fuel storage, resulting risks of environmental harm.

At the meeting, the following submitters were in attendance: Angela Finn-Smith, Brett Penn-Dennis, Corrine Delaney, Diana Rickard, Greg Chapman, Kenneth Melville, Priscilla Terry; and Shannon Tanner, who attended via Teams.

At the meeting, Diana Rickard raised concerns regarding noise, particularly the potential for tourist activities (such as pub crawls). Ms Rickard noted that the applicant has addressed these concerns to an extent, but questioned how these would be enforced.

The Authority clarified that it would require noise impacts to be managed via an Operational Management Plan, as required by a condition on any Development Permit and that the Authority would have the powers to investigate and enforce any breaches of the requirements.

Ken Melville also raised concerns at the meeting regarding the opportunity to make comments if the application is approved and subsequent variations to the operation are sought. Mr Melville also raised concerns regarding privacy impacts.

The Authority advised that if the Applicant wanted to make changes in the future, a new application to the Authority would be required and amenity impacts would form part of the consideration of any variation.

At the meeting, Corrine Delaney also raised concerns about noise, groundwater pollution, fuel storage, helicopter crashes and fires. She further

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queried impacts on local recreation activities, in particular, the local pony club. Ms Delaney also noted concerns that the application was not correctly advertised.

Angela Finn-Smith spoke as a representative of the Litchfield Horse and Pony Club and raised concerns regarding impacts on the club activities, pollution run off and decline in property values. Priscilla Terry also raised concerns regarding impacts on the horses and the rural lifestyle. Shannon Tanner questioned why this location was chosen, i.e., a location where there are residential properties and rural activities that may be negatively impacted by the proposal; and asked how neighbours can complain if there is a breach.

The Applicant responded to these concerns stating that they would be content to accept a Condition Precedent requiring an Operational Management Plan. The Applicant went on to note that the site zoning permits this development, and that the location allows for a flight path that does not cross over residential properties. The Applicant then noted that significant adjustments have been made in response to the Service Authority comments and that spill management/waste disposal/firefighting requirements will be addressed under separate legislation. The Applicant stated it has been made clear in the application what is being applied for and that this will enable enforcement. The Applicant also noted that wider neighbour notification / consultation has been undertaken prior to the lodgement of the application and the responses received as part of that consultation do not demonstrate wholesale community objection.

The Authority carefully considered all the issues raised by submitters and acknowledged their deeply held concerns. It also recognised the work done by the applicant to address these concerns. The consent authority noted that it can only assess applications in the context of the current Northern Territory Planning Scheme and the uses and limitations encompassed by the zoning of the land. It has been determined that the proposed use of the land is compatible with the zone.

In response to the concerns of submitters, the consent authority has also considered the location of the development site relative to property boundaries, the noise impacts, intensity of helicopter movements and considers that adequate separation distance have been provided between incompatible land uses.

The imposition of an Operational Management Plan as a condition of approval was considered appropriate in managing potential impacts on the surrounding area and enforcing any breaches. The potential development of different areas of the site, or a variation to the operation of the proposal, would require a separate planning application.

The Authority noted that the application has been exhibited in accordance with the requirements of the Northern Territory Planning Scheme and the *Planning Act 1999*.

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Changes to the use of the land, and development not in accordance with the conditions on the development permit would be subject to enforcement action pursuant to the provisions of the *Planning Act 1999*.

Regarding the suitability of other sites for the proposed use, the consent authority is required to assess an application as and where proposed and not in consideration of alternative sites.

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.

No land capability issues have been identified.

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.

While acknowledging the deeply held concerns of the submitters, the consent authority took into consideration the potential visual and acoustic impacts of the proposed use and concluded that the visual impact will be minimised by the location of the development on the land, the setback to adjoining boundaries, the extent of native vegetation, the proposed landscaping and the slope of the land.

Based on the acoustic advice provided by BESTEC the consent authority considers that the use can operate in a manner that will not unreasonably impact on the acoustic amenity of the locality. In line with the recommendations of BESTEC, conditions have been applied to the permit restricting helicopter movements to 3 per day, restricting helicopter movements to between the hours of 7am-6pm on weekdays and 8am-6pm on weekends, limiting flight movement to those shown on the endorsed plans, and requiring that noise levels are managed in accordance with the requirements of the *Waste Management and Pollution Control Act 1998*.

5. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated, the requirement 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 has taken into consideration the comments of the Litchfield Council and other service authorities in relation to this application, and where required, applied conditions to the permit. The Authority notes that the development does not propose to utilise any existing accesses to the Stuart Highway, rather access is to be from Affleck Road only. Only existing development on the land is to utilise the existing 2 access points to the Stuart Highway from the subject land.

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The consent authority has considered the request from the Transport and Civil Services Division (TCSD), Department of Logistics and Infrastructure, that should the existing accesses to the Stuart Highway be made redundant that they be sacrificed and made good to their requirements. In consideration that the accesses are to be utilised for the existing uses on the land and not for the transport terminal, conditions as requested by TCSD, have not been applied.

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

03 December 2024