

# Report to the DCA

This report is prepared under section 30P of the *Planning Act 1999*, and considers the submissions made in relation to the proposal

## DEVELOPMENT CONSENT AUTHORITY LITCHFIELD DIVISION

### PROPOSED CONCURRENT APPLICATION PA2025/0041

Amendment proposal to rezone Lot 11 Hundred of Ayers (100 Oxford Road, Berry Springs) from Zone R (Rural) to Zone RL (Rural Living)

And

A development proposal seeking consent for subdivision to create two lots

Agenda Item Number: **4**

Meeting Date: 18 June 2025

Bookmark A -	Exhibition Material
Bookmark B -	Submissions Received:  Bookmarks B1 - Litchfield Council  Bookmark B2 - Power Water Corporation (Power)  Bookmark B3 - Land Resources Division (DLPE)
Bookmark C -	Technical Assessment

## 1. GENERAL INFORMATION

<b>ADDRESS:</b>	Lot 11, Hundred of Ayers (100 Oxford Road, Berry Springs)
<b>CURRENT ZONE:</b>	Zone R (Rural)
<b>PROPOSED ZONE:</b>	Zone RL (Rural Living)
<b>SUMMARY OF APPLICATION:</b>	Subdivision to create two lots
<b>APPLICANT:</b>	Mr Kevin Dodd, Earl James and Associates
<b>LANDOWNER:</b>	Nathan & Yvette Clarke
<b>AREA:</b>	8.1ha

## 2. LEGISLATIVE REQUIREMENTS

The Minister for Lands, Planning and Environment (Minister) is responsible for determining proposals to amend the Northern Territory Planning Scheme 2020 (NTPS 2020) (including the amendment component of a concurrent application).

The *Planning Act 1999* establishes requirements relating to the exhibition, consultation and reporting of concurrent applications.

Under section 30N, the consent authority must conduct a hearing if any submissions are received during the exhibition period.

Under section 30P, the consent authority must (following any required hearing and taking account of matters under section 30P(2)) make a preliminary decision that if the Minister were to approve the amendment proposal, the authority would be likely to consent or refuse to consent to the development proposal.

Under section 30Q of the Act, the consent authority must give the Minister a written report that includes the preliminary decision, the submissions received, the issues raised in submissions or during consultation, and any other information that the consent authority believes the Minister should take into account when considering the proposal.

Upon receipt of a notice of approval of the amendment proposal from the Minister, the consent authority must determine, as required by section 30W(1) to either consent, alter and consent or refuse the development proposal.

## 3. ASSESSMENT SYNOPSIS

This report concludes that the consent authority should:

- make a preliminary decision that if the Minister were to approve the amendment proposal the consent authority would be likely to consent to the development proposal;
- provide a report to the Minister including the preliminary decision, the submissions and the issues raised in the submissions; and

- delegate to the Chair the determination of the development proposal subject to the Minister's decision on the amendment proposal.

#### 4. PROPOSAL

On 21 February 2025, a concurrent application was registered by Earl James and Associates, on behalf of the landowners, Yvette and Nathan Clarke. The application proposes to; rezone Lot 11, Hundred of Ayers (100 Oxford Road, Berry Springs) from Zone R (Rural) to Zone RL (Rural Living); and subdivide the land to create two (2) lots.

A copy of the exhibition material including the application is at **Bookmark A**.

A pre-lodgement meeting with a planning advisor, as required by Section 30B of the *Planning Act 1999*, was held.

Of the two lots proposed, Proposed Lot B will have a frontage to Oxford Road with an area of 2ha and consist of the existing four-bedroom residence, other minor property improvements, existing water supply bore RN36710 and an existing wastewater treatment system.

The balance parcel to the rear (Proposed Lot A) will have a battle-axe driveway access to Oxford Road and an area of approximately 6.1ha, consisting of a horse stable, demountable buildings and existing water supply bore RN43183.

A concurrent application is required to achieve the desired two-lot subdivision with a 2ha and 6.1ha proposed lots, as the minimum lot size stipulated under the NTPS 2020 of the current Rural zoning is 8ha. The proposed Rural Living zoning has a 2ha minimum lot size.

The application is supported by a land suitability assessment, stormwater management plan and a site soil wastewater disposal evaluation.

#### 5. SITE AND LOCALITY CONTEXT

Lot 11 Hundred of Ayers, located in Berry Springs, is 8.1ha and has a frontage on Oxford Road. It contains a single dwelling, built circa 2006, a horse stable and transportable buildings.

Properties either side of the subject site, and to the rear are zoned Rural. On the southern side of Oxford Road, directly opposite the subject site is zoned Rural Living. The site is approximately 1km from the Berry Springs Rural Activity Centre; and 230 metres from the eastern boundary of the Berry Springs Nature Park. A locality map is included at **Bookmark A**.

#### 6. PUBLIC EXHIBITION

The application was placed on public exhibition for a period of 28 days in accordance with the requirements of the *Planning Act 1999*, from 18 April 2025 to 16 May 2025. No public submissions were received.

#### 7. PRELIMINARY DECISION ABOUT DEVELOPMENT PROPOSAL (SECTION 30P OF THE PLANNING ACT)

Section 30P(2) of the *Planning Act 1999* establishes matters the consent authority is required to consider in making a preliminary decision in relation to the development proposal.

The matters discussed below are those identified in section 30P(2) that are relevant to this proposal. Sub clauses not relevant to this proposal and not addressed include (c), (e), (g), (k), (n), and (r).

***(a) the planning scheme that applies to the land to which the application relates (the land);***

The proposed subdivision has been assessed against the NTPS 2020 at Bookmark C and complies with all applicable clauses.

***(b) the amendment proposal in the application;***

The amendment proposal within this application relates to a proposed change in the zoning of the land, from Zone R (Rural) to Zone RL (Rural Living). The merits of the proposal are discussed in section 7(i) of this report. In summary the site is potentially suitable for the proposal because:

- it will provide rural lifestyle options, addressing a demand identified in the Litchfield Sub-Regional Land Use Plan;
- a Land Suitability Assessment, Stormwater Management Plan and Site and Soil Evaluation have been submitted as part of the application. These documents and the Land Resources Division of the Department of Lands, Planning and Environment (DLPE) responses to the application confirm that each new lot is capable of supporting the proposed rural living subdivision on unconstrained land; and
- the proposal is unlikely to adversely impact on the existing and future amenity of the berry Springs locality as it would create an additional Rural Living zoned lot of a size suitable to retain the existing rural lifestyle use of the subject property in a location with proximity to the Berry Springs Rural Activity Centre, that is consistent with the rural character and historical land use development of this rural locality.

***(d) any interim development control order in force for the land;***

As the application is for the subdivision of the subject land, Interim Development Order No. 34 (IDO34) is not explicitly applicable for this assessment. Nonetheless, it is noted (IDO34) introduces planning controls to regulate domestic livestock in the Northern Territory to minimise adverse environmental and amenity impacts where a local government council does not have equivalent local bylaws in place. For the subject property an area of 1ha per domestic livestock (hoofed) animal, unencumbered by any other use, is required and is to be kept maintained with ground cover.

***(f) any information received as a result of consultations carried out, submissions received, or evidence given at a hearing;***

No public submissions were received during the exhibition period under Section 49 of the Planning Act 1999 with respect to the proposal.

***(i) the merits of the development proposal as demonstrated in the application;***

The applicant states the merits of the proposal as:

*The proposed amendment (rezoning) has merit as it will lead to the diversification of living options, and it is consistent with the character of the area given that 2 hectare allotments have been developed in the immediate vicinity.*

- (j) *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 application is supported by a land suitability assessment, stormwater management plan and a site soil wastewater disposal evaluation to outline: each proposed lot have a minimum of 1ha of unconstrained land with an unconstrained access; contain well drained soils; and the land is capable of supporting onsite wastewater treatment and disposal systems that can satisfy the requirements of the *Northern Territory Code of Practice for Wastewater Management 2020* including meeting the setback requirements from existing water bore in the immediate locality.

Furthermore, the response from Land Resources Division of this Department notes the land is capable of supporting the proposed subdivision and existing development on the unconstrained site.

Rudimentarily if the rezoning to Rural Living is approved by the Minister, the current parent parcel could be subdivided into four total lots (a further two-lot subdivision, post this proposal). However, the consent authority is to note that additional subdivision of the site post approval of this proposal (if forthcoming) is undesirable and unlikely to be supported based on the layout design of this proposal and above land capability considerations.

- (l) *the public utilities or infrastructure provided in the area in which the land is situated and any requirement for:*
- (i) *public facilities and services to be connected to the land; and*
  - (ii) *facilities, infrastructure or land to be provided by the applicant;*

The below service authorities and agencies responded to the request for comment on the proposal:

**Local Authority:**

Litchfield Council – **Bookmark B1**

Council raised no objections to the proposed subdivision. The Council recommended that standard conditions be placed on the permit including, the payment of monetary contributions, access to affected roads is to Councils requirements, and any required easements shall be made available to Council free of charge.

**Service Authority / Government Agency:**

Power and Water Corporation (Power) – **Bookmark B2**

- The Corporation does not support the new battle axe lot (Lot B) due to the much higher costs associated with installation.
- Request that standard conditions be placed on the permit in relation to engaging a licensed electrician and that the developer will be responsible for the costs associated to design and install a new point of power service.

Land Resources Division (DLPE) – **Bookmark B3**

- Existing water supply bores RN036710 and RN043183 on the land have a reported yield of 0.5-2.5 L/s and there is currently no surface water extraction licence/s associated with the land. The land does not overlay the Berry Springs Dolostone aquifer, which is estimated as an "Over-allocated" area.
- The land is located on a gently undulating plain with moderately well drained gravelly brown earths and in some areas yellow earths.

- Each proposed lot contains >1ha of land unconstrained by drainage issues, and the access to each proposed lot is similarly unconstrained by drainage.
- An erosion and sediment control plan is not required due to the nature of the two-lot subdivision, nonetheless it is best practice if erosion and sediment control measures are employed during any development works.
- Standard heritage advice and recommended actions for the proponent in accordance with the *Heritage Act 2011*.
- Standard weeds advice and recommended actions for the proponent in accordance with the *Weeds Management Act 2001*.

No responses were received from the consulted service authorities and agencies of:

- Aboriginal Areas Protection Authority
- Telstra
- Department of Health
- NT Fire and Emergency Services
- NBNCo
- Power and Water Corporation (Water)

**(m) *the potential impact on the existing and future amenity of the area in which the land is situated;***

The proposed two-lot subdivision within established rural lifestyle area is unlikely to have an adverse impact on the existing and future amenity of the Berry Spring rural locality.

**(na) *for a proposed subdivision or consolidation of land in a Restricted Water Extraction Area – whether the subdivision or consolidation complies with the restrictions of sections 14A and 14B of the Water Act 1992 and the requirements of section 14C(1) of that Act;***

The proposal does not overlay a Restricted Water Extraction Area and as noted by the Land Resources Division (DLPE) the subject land also does not overlay the Berry Springs Dolostone aquifer, which is estimated as an "Over-allocated" area.

**(p) *any potential impact on natural, social, cultural or heritage values (including, for example, the heritage significance of a heritage place or heritage object under the Heritage Act 2011);***

The proposal is unlikely to have any potential impact on social, cultural or heritage value within the Berry Springs locality.

**(o) *if the development proposal relates to a subdivision of land on which a building is, or will be, situated – whether the building complies, or will comply, with any requirements prescribed by regulation in relation to the building (including, for example, requirements about the structural integrity and fire safety of the building);***

A statement has been provided by a registered NT Building Certifier confirming that no building will cease to comply with the *Building Act 1993* if the proposed subdivision were to proceed.

**(q) *any beneficial uses, quality standards, criteria, or objectives, that are declared under the Water Act ;***

The following declared beneficial uses under Section 73 of the *Water Act 1992* apply to the subject land:

- Darwin Harbour Region (Surface Water) – Aquaculture, environment, cultural, rural stock and domestic.
- Darwin Rural Water Control District - Agriculture, aquaculture, public water supply, environment, cultural, industry, rural stock and domestic, mining activity and petroleum activity.

Although the proposal is unlikely to impact water quality, it is the responsibility of the developer and landowner to ensure that land use does not result in a contravention of the *Water Act 1992*.

## 8. RECOMMENDATION SUMMARY

The consent authority is required to make a number of related decisions about a concurrent application. The decisions required in relation to the amendment proposal and development proposal are summarised below.

**Recommendation 1** relates to the preliminary decision the consent authority is likely to make, as required by section 30P, on the development proposal seeking consent for subdivision to create two lots, in the event the Minister were to approve the amendment proposal.

Note that the preliminary decision does not result in a development permit at this stage in the concurrent application process.

**Recommendation 2** relates to the report the consent authority is required, under section 30Q to provide to the Minister.

**Recommendation 3** delegates to the Chair the determination of the development proposal contained in the application after receipt of a notice from the Minister under section 30U(1) Minister's decision on the amendment proposal.

Note that the determination of the development proposal will also give effect to the amendment proposal contained in the concurrent application.

## 9. RECOMMENDATION 1

As required by section 30P(1)(a), the consent authority must make a preliminary decision that, if the Minister were to approve the amendment proposal to rezone Lot 11 Hundred of Ayers (100 Oxford Road, Berry Springs) from Zone R (Rural) to Zone RL (Rural Living) that it would be likely to determine to consent to the development under section 30W(1)(a) conditionally for the purpose of a subdivision to create two lots subject to the following conditions:

### CONDITIONS PRECEDENT

1. 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 the Litchfield Council, to the satisfaction of the consent authority.

The plan shall:

- include details of site levels and Litchfield Council's stormwater drain connection point(s);

- demonstrate that stormwater run-off is capable of being discharged across the lot surface to the main drainage system or to an approved alternate connection;
- demonstrate that the drainage system is designed to cater for both initial storm events and major storm events; and
- demonstrate that no contaminated water shall enter any waterway or Litchfield Council's drainage system.

## GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawing numbered 2025/0041/01 which is endorsed as forming part of this permit.
3. Before the issue of titles, 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.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities networks to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
5. 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.
6. 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.
7. 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.
8. Before the issue of titles, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority on advice from the Bushfires Northern Territory Division of the Northern Territory Fire and Emergency Services.

## NOTES

1. This permit will expire if one of the following circumstances applies:
  - a. the development and use is/are not started within two years of the date of this permit; or
  - b. the development is not completed within four years of the date of this permit.
 The consent authority may extend the periods referred to if a request is made in writing before the permit expires.
2. A Works Permit is required from the 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. Fee may apply.



3. The Power and Water Corporation (PWC) advise that the existing power service to Lot 11 will remain unchanged to the proposed Lot B with the existing residence and shed, and that the proponent shall:
  - a. engage an electrical consultant to submit a 'Negotiated Connection' application under the Australian Energy Regulator (AER) compliance process for PWC's assessment on the applicable power upgrade works; and
  - b. engage a licensed electrician to: install internal electrical reticulation on proposed Lot A from a new meter switchboard at the front boundary along the axe-handled access to all existing building structures to comply with acceptable voltage drop in accordance PWC's *NP018 - Service and Installation Rules 2020* and *NP010 - Meter Manual*; and remove any existing internal reticulation in between proposed Lots A and B.
4. 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 Lands, Planning and Environment.
5. 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 over the course of work, cease operation and please phone Heritage Branch of the Department of Lands, Planning and Environment.
6. 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. For further advice, visit <https://nt.gov.au/environment/soil-land-vegetation> or contact the Land Development Coordination Branch on (08) 8999 4446.
7. 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 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.

## **10. REASONS FOR RECOMMENDATION 1**

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 rezoning amendment from Zone R (Rural) to Zone RL (Rural Living) will provide rural lifestyle options, addressing a demand for such identified in the Litchfield Sub-Regional Land Use Plan (Strategic Framework) and the two-lot subdivision has been found to comply with all relevant requirements of the Northern Territory Planning Scheme 2020.

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

A Land Suitability Assessment, Stormwater Management Plan and Site and Soil Evaluation have been submitted as part of the application. These documents and the Land Resources Division of the Department of Lands, Planning and Environment responses to the application confirm that each new lot is capable of supporting the subject rural living subdivision.

3. 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 proposed two-lot subdivision within an established rural lifestyle area is unlikely to have an adverse impact on the existing and future amenity of the Berry Spring rural locality.

## **11. RECOMMENDATION 2**

That under 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.

## **12. RECOMMENDATION 3**

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 11 Hundred of Ayers (100 Oxford Road, Berry Springs) for the purpose of subdivision to create two lots; and
- issue the relevant notices under Section 30Y.

**AUTHORISED**

A handwritten signature in black ink, appearing to read 'DB', with a long horizontal stroke extending to the right.

**David Burrow  
Senior Planner  
Lands Planning**

A handwritten signature in blue ink, appearing to read 'Rory Mackay', with a stylized, looped structure.

**Rory Mackay  
Rural, Regional & Remote Senior Planner  
Development Assessment Services**

## NORTHERN TERRITORY OF AUSTRALIA

### CONCURRENT APPLICATION PA2025/0041

The Minister for Lands, Planning and Environment has accepted a concurrent application made by Earl James & Associates. The application seeks to:

- rezone Lot 11 Hundred of Ayers (100 Oxford Street, Berry Springs) from Zone R (Rural) to Zone RL (Rural Living); and
- subdivide to create two (2) lots.

Attached are:

- a locality and zoning maps;
- extracts from the NT Planning Scheme 2020 relating to Zone RL (Rural Living); and
- a copy of the application.

#### **Period of Exhibition and Lodging a Submission**

The exhibition period is from Friday 18 April 2025 to Friday 16 May 2025.

The Concurrent Application includes both an amendment proposal and a development proposal. Written submissions about the concurrent application may address the amendment proposal, the development proposal, or both. Submissions received during the exhibition period will be taken into consideration by both the Minister and the consent authority in their determination of the respective components of the application.

Submissions in relation to a concurrent application must be in writing and include the name and postal address of the author and may be made publicly available in full.

Written submissions are to be received by 11.59pm on Friday 16 May 2025 and addressed to:

Development Assessment Services  
Department of Lands, Planning and Logistics  
GPO Box 1680  
DARWIN NT 0801; or

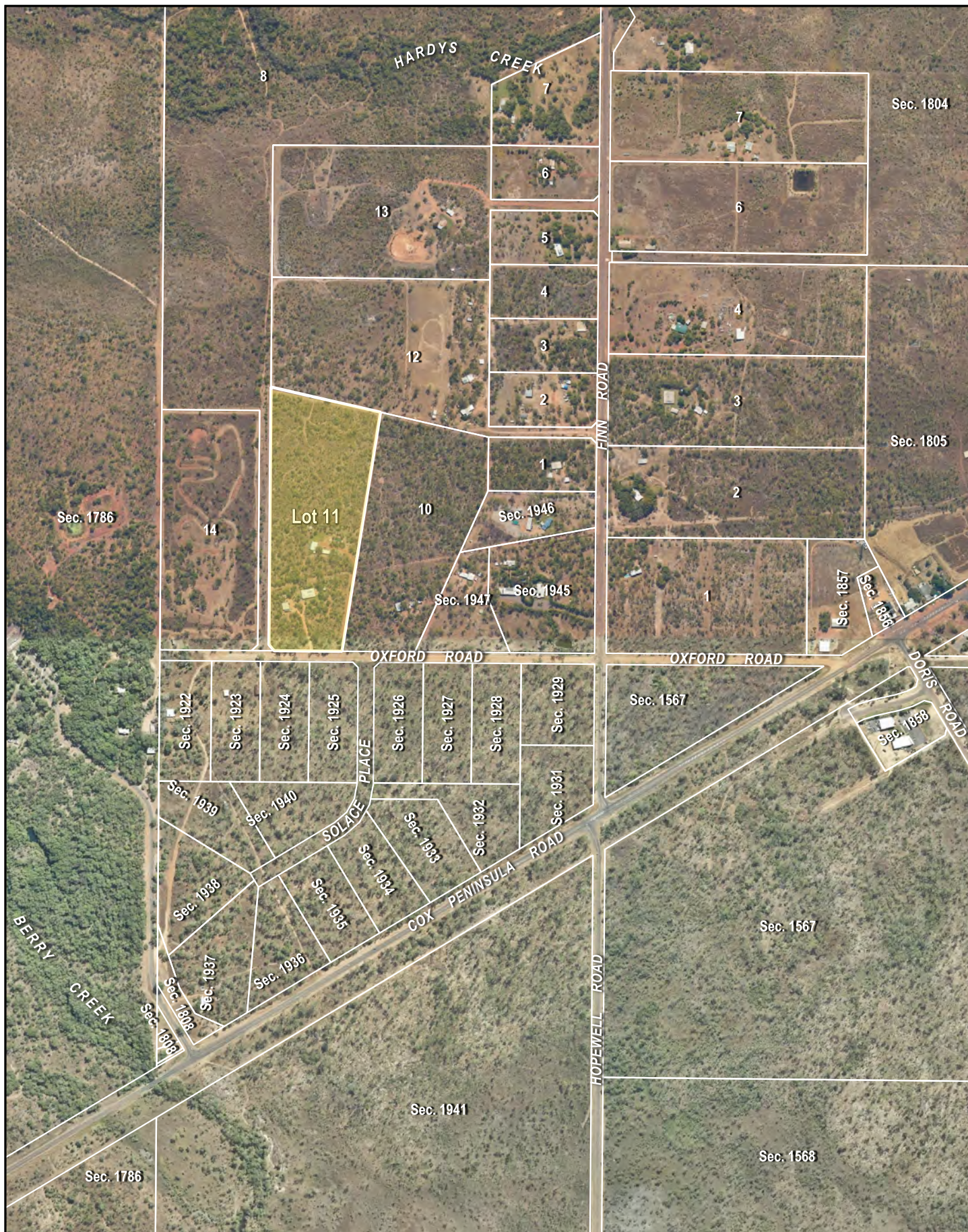
Email: [das.dlpe@nt.gov.au](mailto:das.dlpe@nt.gov.au); or

Fax: (08) 8999 6055; or

Hand delivered to: Level 1, Energy House, 18-20 Cavenagh Street, Darwin.

For more information, please contact Mr Andrés Calvo, Lands Planning on [Andres.Calvo@nt.gov.au](mailto:Andres.Calvo@nt.gov.au) or 8999 47513.

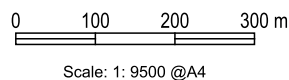




Locality Plan  
 Amendment PA2025/0041  
 Rezone Lot 11  
 Hundred of Ayers  
 From Zone R (Rural)  
 to Zone RL (Rural Living)

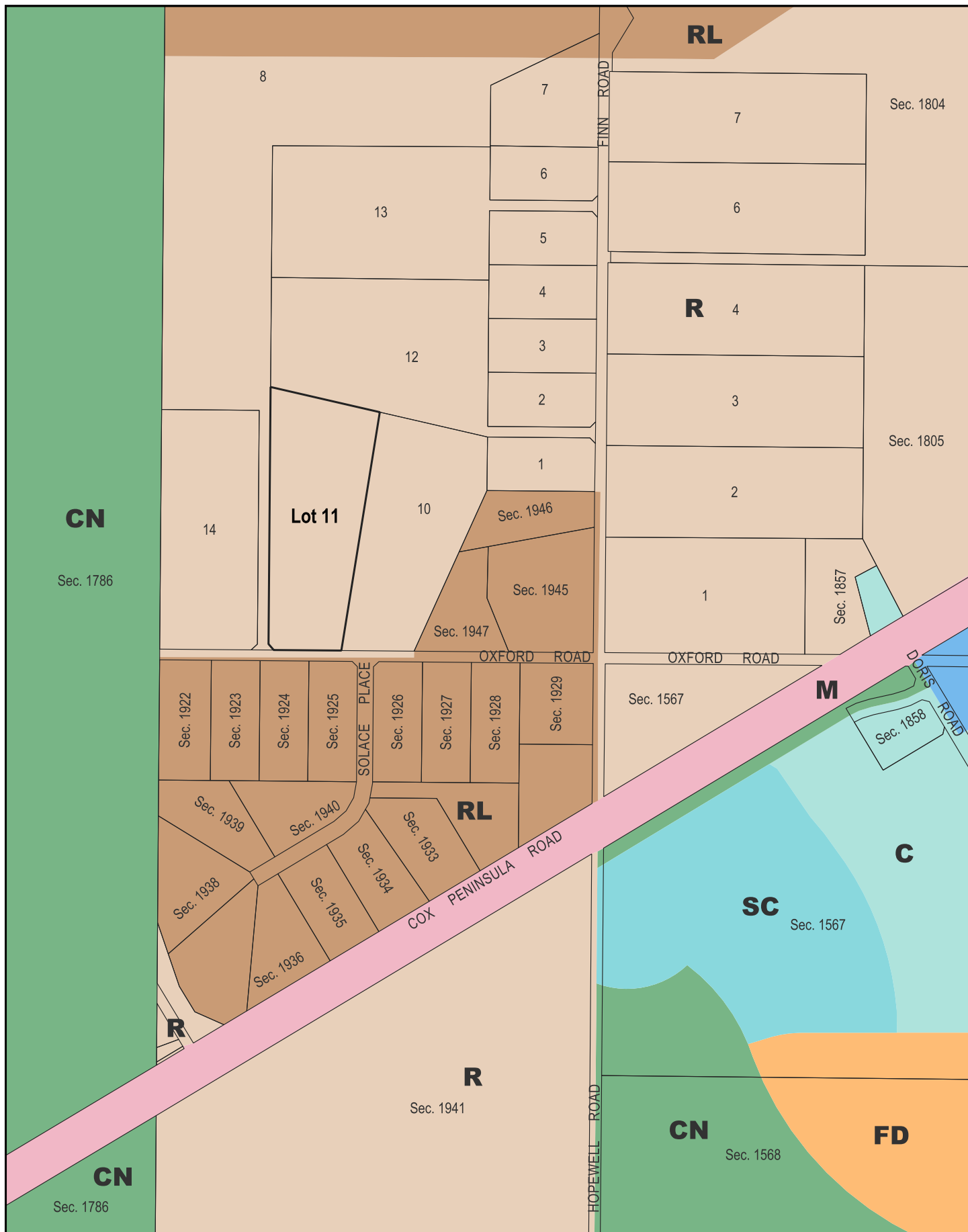


Department of Lands, Planning and Environment



File No: PA2025/0041  
 Date: 17/03/2025

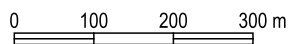




Existing Zoning Plan  
NT Planning Scheme  
Amendment PA2025/0041  
Rezone Lot 11  
Hundred of Ayers  
From Zone R (Rural)  
to Zone RL (Rural Living)



Department of Lands, Planning and Environment



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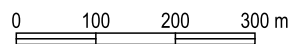
File No: PA2025/0041  
Date: 17/03/2025



Proposed NT Planning Scheme  
Amendment PA2025/0041  
Rezone Lot 11  
Hundred of Ayers  
From Zone R (Rural)  
to Zone RL (Rural Living)



Department of Lands, Planning and Environment



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File No: PA2025/0041  
Date: 17/03/2025

## **Concurrent Application**

### **Lot 11, LTO76/018 - Hundred of Ayers**

#### **Reason for Concurrent Application**

Lot 11, survey plan LTO76/018 is located in Oxford Road, Berry Springs and is owned by NT residents Nathan and Yvette Clarke

The area of Lot 11 is in excess of 8.1 hectares with the property dimensions depicted on survey plan LTO76/018

The property is currently zoned R (Rural) under the NT Planning Scheme (NTPS).

This report forms part of a Concurrent Application seeking approval to change the zoning of Lot 11 from R to Rural Living (RL) and to subdivide the land in order to create 2 lots.

The suitability of the immediate area for Rural Living has previously been recognised as the land on the opposite side of Oxford Road was rezoned to RL, as was the land on the corner of Oxford and Finn Roads.

When the Minister rezoned the land on the corner of the Oxford/Finn Road intersection, the following reasons were given for the Minister's decision:

- It is consistent with the Darwin Regional Land Use plan and the Litchfield Subregional Land Use Plan;
- It will contribute to the diversification of residential living options in the rural area;
- It is consistent with the character of the neighbourhood, as 2 hectare lots are present in the subdivision pattern to the north and the south of the land;
- The land is free from environmental constraints that limit the use of the land; and
- Potable water is not being sourced from the Berry Springs Dolostone Aquifer.

The same reasons now support the proposed rezoning of Lot 11 from R to RL.

Lot 11 is in close proximity to the Berry Springs rural activity centre and the subdivision will help in providing housing options around the centre.

The issue of availability of groundwater was discussed at the pre-application meeting with Government planners. Following that meeting, an enquiry was made to the Water Resources Division of the Department of Environment, parks and Water Security (DEPWS).

DEPWS confirmed that there was sufficient water in the subject aquifer to supply the proposed, additional parcel that will result from the proposed subdivision.

In order to arrange for the subdivision of Lot 11, the NT Planning Scheme will need to be amended to change the zone of the subject land to zone Rural Living as this will facilitate the creation of the new allotments that are consistent with other lots in the immediate vicinity.

The concurrent application process is being utilised as it will allow for a single application, a single exhibition period for the Planning Scheme amendment and development application components of the application and also allow for a single submission/comment from authorities and members of the community.



When considering a concurrent application, the Minister must also consider the following (Clause 30D(4A):

- (a) whether the proposed amendment promotes the purpose and objectives of this Act;

The proposed amendment is consistent with the Purpose of the Act as it will apply a zone to the subject land that will enable a subdivision that achieves the required objectives.

The amendment will facilitate a subdivision that is an appropriate use of the land and water resources, has access to public utilities and infrastructure, and will involve appropriate public consultation.

- (b) whether the proposed amendment, other than a proposed amendment to a strategic framework, is contrary to any strategic framework in the planning scheme;

The proposed amendment is generally consistent with the established, strategic planning framework for the area.

- (e) the merits of the proposed amendment and whether the amendment is in the public interest;

The proposed amendment (rezoning) has merit as it will lead to the diversification of living options, and it is consistent with the character of the area given that 2 hectare allotments have been developed in the immediate vicinity.

The proposal is in the public interest as it will facilitate the creation of an additional, rural living option

- (f) any report received from the Commission under subsection (3);

We are not aware of any report from the Commission that relates to the subject land.

- (g) any other matters the Minister considers appropriate.

For the Minister to consider.

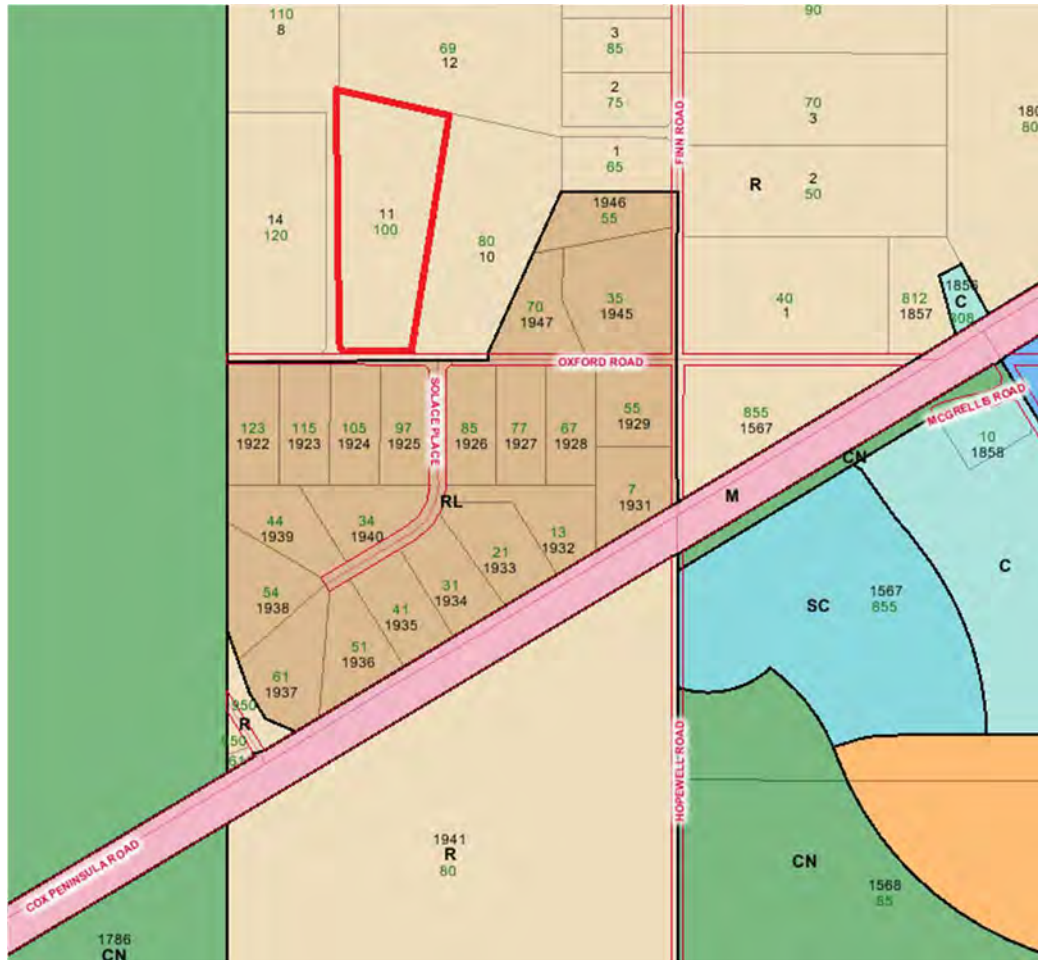


## Survey plan LTO76/018

## Description of the Proposed Amendment

The objective of this application is to create an additional rural residential living parcel with area of approximately 2 hectares and a balance parcel that will have an area of approximately 6.1 hectares.

In order to achieve that objective, the first step is to amend the NT Planning Scheme and change the zoning of Lot 11 from R (Rural) to RL (Rural Living) and to subdivide the land in order to create 2 lots. Similar rezonings, and subsequent subdivisions have taken place in Oxford Road to the south and east and titles have issued for the new lots.



Existing zonings in the area

### Strategic Framework

The Darwin Regional Land Use Plan 2015 (DRLUP) applies to the subject land and identifies the subject area as *Rural Lifestyle*.

The Litchfield Sub-Regional Land Use Plan 2016 (LSLUP) also applies, and it identifies the area as *Rural Atea*

The change in zoning being proposed by this Concurrent Application and the subsequent subdivision to create 2 lots is consistent with the strategic planning for this locality.

The purpose of zone RL is:

*Provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.*

The subdivision being proposed by the current application meets the Purpose of the RL zone.

Below are the Zoning Tables for the R and RL zones.

ASSESSMENT TABLE – ZONE R – RURAL					
Defined Use	Assessment Category	Overlays	General Development Requirements	Location Specific Development Requirements	Specific Development Requirements
Agriculture	Permitted	3.2 CNV – Clearing of Native Vegetation	5.2.1 General Height Control		5.7.1 Rural Development (Agriculture, Horticulture and Intensive Animal Husbandry)
Animal Boarding	Impact assessable	3.3 RCNV - Restricted Clearing of Native Vegetation	5.2.4 Car Parking		5.7.2 Animal related use (Animal Boarding and Stables)
Caravan Accommodation	Permitted		5.2.5 Loading Bays		5.4.11 Caravan Accommodation
Child Care Centre	Impact assessable	3.4 CR – Coastal Reclamation	5.2.6 Landscaping		5.5.7 Child Care Centre
Community Centre	Impact assessable		5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR		
Demountable Structures	Permitted	3.5 LPA – Land in Proximity to Airports			5.8.7 Demountable Structures
Dwelling-Community Residence	Permitted	3.6 LSF – Land Subject to Flooding			5.4.14 Dwelling Community Residence
Dwelling-Independent	Permitted			3.7 LSSS – Land Subject to Storm Surge	
Dwelling-Single	Permitted	3.8 LADR – Land Adjacent to a Designated Road			
Education Establishment	Impact assessable	3.14 HHLSI – Land in proximity to Helicopter Landing Sites of Strategic Importance			5.8.2 Education Establishment
Emergency Services Facility	Impact assessable				5.8.6 Emergency Services Facility
Excavation and Fill	Impact assessable				5.8.9 Excavation and Fill
Food Premises-Café/Take Away	Impact assessable				5.5.11 Food Premises
Food Premises-Restaurant	Impact assessable				5.5.11 Food Premises
Helicopter Landing Site	Impact assessable				5.4.16 Helicopter Landing Sites
Home Based Business	Permitted				5.4.10 Home Based Businesses
Horticulture	Permitted				5.7.1 Rural Development (Agriculture, Horticulture and Intensive Animal Husbandry)
Industry-Primary	Impact assessable				5.7.4 Industry-Primary in Zones RL, R and H

ASSESSMENT TABLE – ZONE R – RURAL					
Defined Use	Assessment Category	Overlays	General Development Requirements	Location Specific Development Requirements	Specific Development Requirements
Intensive Animal Husbandry	Impact assessable	3.2 CNV – Clearing of Native Vegetation	5.2.1 General Height Control		5.7.1 Rural Development (Agriculture, Horticulture and Intensive Animal Husbandry)
Place of Worship	Impact assessable	3.3 RCNV - Restricted Clearing of Native Vegetation	5.2.4 Car Parking		5.8.4 Exhibition Centre, Place of Assembly and Place of Worship
Plant Nursery	Permitted		5.2.5 Loading Bays		
Renewable Energy Facility	Impact assessable		5.2.6 Landscaping		5.8.8 Renewable Energy Facility
Residential Care Facility	Impact assessable	3.4 CR – Coastal Reclamation  3.5 LPA – Land in Proximity to Airports  3.6 LSF – Land Subject to Flooding	5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR		5.4.1 Residential Density 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures 5.4.7 Communal Open Space 5.4.8 Residential Building Design 5.4.15 Residential Care Facility 5.4.17 Building Articulation
Retail Agricultural Stall	Permitted	3.7 LSSS – Land Subject to Storm Surge			5.7.5 Retail Agricultural Stall
Sex Services-Home Based Business	Permitted				5.4.10 Home Based Businesses
Stables	Permitted	3.8 LADR – Land Adjacent to a Designated Road			5.7.2 Animal related use (Animal Boarding and Stables)
Telecommunications Facility	Impact assessable				5.8.10 Telecommunications Facility
Transport Terminal	Impact assessable	3.14 HHLSI – Land in proximity to Helicopter Landing Sites of Strategic Importance			5.7.3 Transport Terminals in Zones R and H
Veterinary Clinic	Impact assessable				
All other uses defined in Schedule 2 (Definitions)	Prohibited				
Undefined Uses Any use not defined in Schedule 2 (Definitions)	Impact assessable				Part 2, Part 3, Part 4, Part 5 of this Planning Scheme

ASSESSMENT TABLE – ZONE RL – RURAL LIVING					
Defined Use	Assessment Category	Overlays	General Development Requirements	Location Specific Development Requirements	Specific Development Requirements
Agriculture	Impact assessable	3.2 CNV – Clearing of Native Vegetation	5.2.1 General Height Control		5.7.1 Rural Development (Agriculture, Horticulture and Intensive Animal Husbandry)
Animal Boarding	Impact assessable	3.3 RCNV – Restricted Clearing of Native Vegetation	5.2.4 Car Parking		5.7.4 Industry-Primary in Zones RL, R, and H
Caravan Accommodation	Permitted		5.2.5 Loading Bays		5.7.2 Animal Related Use (Animal Boarding and Stables)
Child Care Centre	Impact assessable	3.4 CR – Coastal Reclamation	5.2.6 Landscaping		5.4.11 Caravan Accommodation
Community Centre	Impact assessable	3.5 LPA – Land in Proximity to Airports	5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR		5.5.7 Child Care Centre
Demountable Structures	Permitted				
Dwelling-Community Residence	Permitted	3.6 LSF – Land Subject to Flooding			5.8.7 Demountable Structures
Dwelling-Independent	Permitted	3.7 LSSS – Land Subject to Storm Surge			5.4.14 Dwelling-Community Residence
Dwelling-Single	Permitted	3.8 LADR – Land Adjacent to a Designated Road			5.4.3 Building Setbacks for Residential Buildings and Ancillary Structures
Emergency Services Facility	Impact assessable	3.14 HHLSI – Land in proximity to Helicopter Landing Sites of Strategic Importance			5.4.6 Private Open Space
Excavation and Fill	Impact assessable				5.4.13 Dwelling-Independent
Helicopter Landing Site	Impact assessable				5.4.1 Residential Density
Home Based Business	Permitted				5.4.3 Buildings Setbacks for Residential Buildings and Ancillary Structures
Horticulture	Impact assessable				5.4.6 Private Open Space
Industry-Primary	Impact assessable				5.8.6 Emergency Services Facility
Intensive Animal Husbandry	Impact assessable				5.8.9 Excavation and Fill
					5.4.16 Helicopter Landing Sites
					5.4.10 Home Based Businesses
					5.7.1 Rural Development (Agriculture, Horticulture and Intensive Animal Husbandry)
					5.7.4 Industry-Primary in Zones RL, R, and H
					5.7.1 Rural development (Agriculture, Horticulture and Intensive Animal Husbandry)



ASSESSMENT TABLE – ZONE RL – RURAL LIVING					
Defined Use	Assessment Category	Overlays	General Development Requirements	Location Specific Development Requirements	Specific Development Requirements
Plant Nursery	Impact assessable	3.2 CNV – Clearing of Native Vegetation	5.2.1 General Height Control		
Residential Care Facility	Impact assessable	3.3 RCNV – Restricted Clearing of Native Vegetation 3.4 CR – Coastal Reclamation	5.2.4 Car Parking 5.2.5 Loading Bays 5.2.6 Landscaping 5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR		5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures 5.4.7 Communal Open Space 5.4.8 Residential Building Design 5.4.15 Residential Care Facility 5.4.17 Building Articulation
Retail Agricultural Stall	Permitted	3.5 LPA – Land in Proximity to Airports			5.7.5 Retail Agricultural Stall
Sex Services-Home Based Business	Permitted				5.4.10 Home Based Businesses
Stables	Impact assessable	3.6 LSF – Land Subject to Flooding			5.7.2 Animal Related Use (Animal Boarding and Stables)
Telecommunications Facility	Impact assessable	3.7 LSSS – Land Subject to Storm Surge			5.8.10 Telecommunications Facility
Veterinary Clinic	Impact assessable				
All other uses defined in Schedule 2 (Definitions)	Prohibited	3.8 LADR – Land Adjacent to a Designated Road			
Undefined Uses Any use not defined in Schedule 2 (Definitions)	Impact assessable	3.14 HHLSI – Land in proximity to Helicopter Landing Sites of Strategic Importance			Part 2, Part 3, Part 4, Part 5 of this Planning Scheme

Whilst the zones are generally consistent, Agriculture and Horticulture are Impact Assessable in the RL zone and these changes are more compatible with the rural residential lifestyle that is proposed for the area.

### *Land Suitability*

A Land Suitability Assessment (LSA) in accordance with the NT Land Suitability Guidelines forms part of this application.

Land unit mapping obtained from the Department of Land, Planning and Environment indicates that all of the land comprised within the proposed Lots is made up of land unit 3c

Land unit 3c is defined as: flat to gently undulating upland surface with grades ranging from 1-3%; site drainage is moderately rapid; soils are shallow to moderately deep gravelly yellow massive earths, minor lateritic lithosols; Eucalypt woodland to open forest.

Proposed Lot B has an existing wastewater treatment system adjacent to the existing residence and this has operated effectively for many years.

Proposed Lot A comprises soils capable of supporting an on-site wastewater treatment system (confirmed by the attached Soil Evaluation).

The land does not have any physical characteristics that would make the proposed Planning Scheme amendment or the associated development proposal (create 2 lots) inappropriate.

### *Infrastructure*

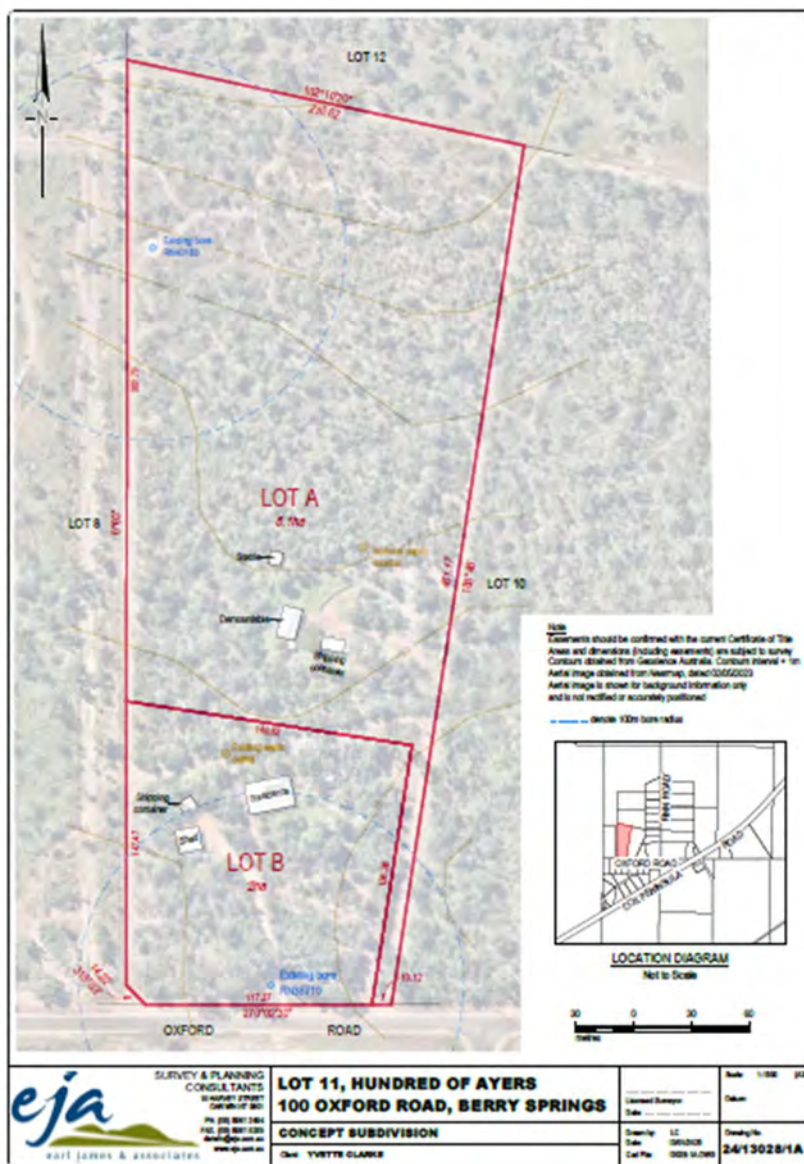
Reticulated power is available in Oxford Road and proposed Lot B has an existing connection.

Proposed Lot A has the option of also connecting to the Oxford Road reticulation or utilising a solar system to generate its power requirements.

There is an existing bore on each of the proposed Lots (RN43183 on Lot A and RN36710 on Lot B) and the water licensing authority has confirmed that there is sufficient capacity in the aquifer to support the proposed, one additional parcel.

Onsite systems will be utilised for the treatment and disposal of wastewater and both lots will be accessed from a sealed public road that is connected to an established road network.





## Conclusion

The proposed Planning Scheme amendment will facilitate the development of a rural living subdivision that is expected to yield two lots.

The Land Suitability Assessment has determined that there are no physical impediments to the subdivision proposal and there are appropriate services adjacent to the site to service the proposed lots.

Amendment of the NT Planning Scheme as proposed by this application will be consistent with the Darwin Regional Land Use Plan and the Litchfield Subregional Land Use Plan and will facilitate suitable development in the area.

## **Proposed Development Report**

### **Lot 11, LTO76/018 - Hundred of Ayers**

This report forms part of a Concurrent Application seeking approval to change the zoning of part of Lot 11, LTO76/018 from Rural (R) to Rural Living (RL) and then subdivide Lot 11 in order to create 2 lots.

Clause 30C(3)(b) of the Planning Act requires the reasoning for a concurrent application. The concurrent application process is being utilised as it will allow for a single application, a single exhibition period for the Planning Scheme amendment and development application components of the application and also allow for a single submission/comment from authorities and members of the community.

The report will assess the compliance of the proposed subdivision with the relevant sections of the NT Planning Scheme on the basis that the proposed zonings are in place.

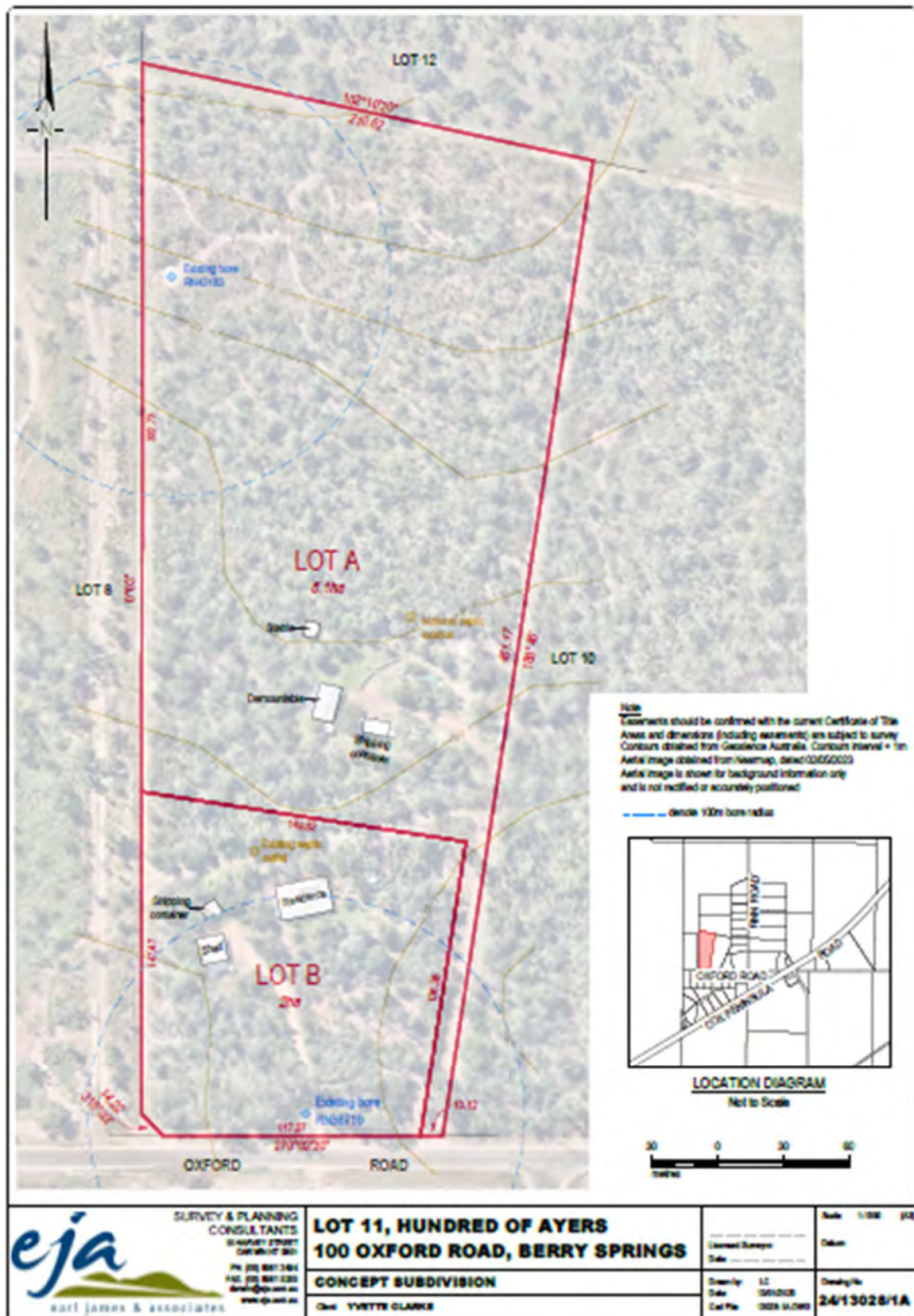
#### **Subdivision Proposal**

Lot 11 is located at 100 Oxford Road, berry Springs and is owned by NT residents, Nathan and Yvette Clarke.

The intention is to subdivide the land comprised within the property order to create 2 rural living allotments in accordance with plan 24/13028/1A.

Lot B, with an area of 2 hectares, will comprise the existing 4 bedroom residence and other minor improvements. Lot B will also comprise existing bore (RN36710) and an existing wastewater treatment system.

The balance parcel, Lot A, will have an area of approximately 6.1 hectares and comprise a horse stable and some transportable buildings and a shipping container. Existing bore RN43183 will also be on proposed Lot A.



The proposed subdivision layout



#### **46(3)(a) – Compliance with the NT Planning Scheme**

Property details:

*Lot 11, LTO76/018, Hundred of Ayers*

Title details: Volume 720 Folio 384

Survey Plan: LTO76/018

Address: 100 Oxford Road, Berry Springs

Easements: Nil

Lot Area: 8.1 hectares

#### **46(3)(aa) – Interested parties**

*Applicant Details*

**Earl James and Associates**

Representative: Kevin Dodd

Address: GPO Box 884, Darwin NT 0801

Email: [kdodd@eja.com.au](mailto:kdodd@eja.com.au)

Phone: 08 89812494

*Landowner:*

**Nathan and Yvette Clarke**

Address: PO Box 3162, Palmerston NT 0831

Phone: c/o 08 89812494

#### *Strategic Framework*

The Darwin Regional Land Use Plan 2015 (DRLUP) applies to the subject land and identifies the subject area as *Rural Lifestyle*.

The Litchfield Sub-Regional Land Use Plan 2016 (LSLUP) also applies, and it identifies the area as *Rural Atea*

The change in zoning being proposed by this Concurrent Application and the subsequent subdivision to create 2 lots is consistent with the strategic planning for this locality.

#### *Zoning*

As previously mentioned, the intention is to change the zoning of Lot 11 to RL.

The purpose of zone RL is:

*Provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.*

The subdivision being proposed by the current application meets the Purpose of the RL zone.



### Zone Outcomes

1. *Predominantly dwellings-single and dwellings-independent within a rural lifestyle setting.*
2. *Home based businesses and dwellings-community residence are of a scale, intensity and nature that is compatible with the character and amenity of the surrounding locality.*
3. *Residential development, such as residential care facilities, does not interfere with the character and amenity of the zone.*
4. *Rural activities, such as agriculture, animal boarding, horticulture, intensive animal husbandry, plant nursery, industry-primary, stables, and veterinary clinic where the scale, intensity and nature of the activity is compatible with the character and amenity of the surrounding locality and the land is capable of supporting the development.*
5. *Development for residential purposes does not interfere with the existing or ongoing use of rural land for productive agricultural or horticultural purposes.*
6. *Community focused activities, such as community centre, child care centre, and emergency management facility:*
  - (a) are of a scale and intensity compatible with the character and amenity of the area;*
  - (b) wherever possible, are co-located with other non-residential activities in the locality;*
  - (c) avoid adverse impacts on the surrounding road network; and (d) are managed to minimise unreasonable impacts on the amenity of surrounding residents.*
7. *The design and site layout of all development are sympathetic to the existing streetscape, scale and character of surrounding development.*
8. *Development does not impose unsustainable demands on surface water and groundwater.*
9. *Subdivision design is informed by land suitability assessment to confirm the land is able to support residential development.*
10. *Development is provided with an appropriate level of services and infrastructure, and minimises impacts on sensitive environments.*
11. *Development that is not defined in Schedule 2 (Definitions) may occur only when assessment has determined that the development is appropriate in the zone, having regard to the purpose and outcomes of this zone and such matters as the location, nature, scale and intensity of the development.*

The land is able to support the proposed subdivision, and it has been confirmed that the proposal will not place an unsustainable demand on groundwater.

The subdivision will not have a negative impact on sensitive environments and there is infrastructure in place to support the one additional parcel.

Consequently, the proposal will achieve the outcomes being sought for the RL zone.

### Overlays

The Overlays in the NTPS identify areas of land that have specific development requirements.

The Record of Administrative Interests for Sections 4213 advises that overlay *Clearing of Native Vegetation* (CNV) applies to the land.

The purpose of the CNV overlay is to *identify areas with limits to the clearing of native vegetation and ensure that clearing in these areas does not:*

- a) impact on the conservation values of land within Zone CN: or*
- b) unreasonably contribute to environmental degradation of the locality.*

Clearing for the proposed subdivision will be limited to boundary firebreaks (Overlay does not apply)





### Existing zones

#### 6.3.2 Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land

##### Purpose

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.

##### Administration

1. The consent authority may consent to a subdivision that is not in accordance with sub-clauses 5-10 if it is satisfied that:

- (a) the subdivision does not result in an increased lot yield; and
- (b) the lot size and/or configuration 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;*

*(c) and the consent authority is satisfied that the lots created will be consistent with the purpose of this requirement and the zone purpose and outcomes.*

*2. The consent authority may consent to a subdivision on Unzoned Land that is not in accordance with the table to this clause only if it is satisfied that the lots created will be consistent with the purpose of this requirement.*

*3. Despite sub-clause 1, the consent authority must not consent to a subdivision in Zone RL in Alice Springs and adjacent zoned areas that is not in accordance with the table to this clause.*

*4. The unconstrained nature of the land is to be demonstrated by a land suitability assessment addressing the NT Land Suitability Guidelines, in accordance with clause*

*Editor's Note: Lots less than 8ha on unzoned land for urban and community uses and for the provision of essential infrastructure should address Clause 6.3.6.*

#### Requirements

*5. Land is to be subdivided in accordance with the table to this clause.*

The proposed lot sizes are consistent with the proposed RL zone.

*6. Lots have a depth to width ratio not exceeding 4:1.*

The proposed Lots comply.

*7. Incorporate as far as practicable, drainage lines and drainage floors wholly within a single lot.*

The proposed boundaries do not impact on drainage lines.

*8. Allow for 70m separation between bores, both proposed and existing.*

The two, existing bores are more than 70m apart.

*9. Lot boundaries are to be:*

- (a) at right angles to any watercourse;*
- (b) sufficiently up slope to be outside of seepage zones where following drainage lines; and*
- (c) at right angles to contours or along contours where slope is between 2.0% and 5.0% and follow ridge lines, spurs or contours where slope is above 5.0%.*

The subject land is relatively flat and the proposed boundaries do not impact on any watercourses, drainage lines or steep slopes.

*10. Minimise the number of watercourse crossings.*

The subdivision does not introduce any boundaries crossing watercourses.

Table to Clause 6.3.2: Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land	
Zone	Minimum Lot Size and Requirements
RL	2ha with a minimum of 1ha of unconstrained land
R	8ha with a minimum of 1ha of unconstrained land or 40ha in Alice Springs and Tennant Creek municipalities, with a minimum of 1ha of unconstrained land
H	25ha all unconstrained land
Unzoned Land	8ha

### 6.3.3 Site Characteristics for Subdivision for Lots of 1ha or Greater in Zones RR, RL, R and H, and Unzoned Land

#### Purpose

Ensure subdivision of land in Zones RR, RL, R and H, and unzoned land, responds to the physical characteristics of the land.

#### Administration

1. The consent authority must not consent to a subdivision that does not include 1ha of land per lot in Zones RL, R and Unzoned Land, and 25ha in Zone H, identified as unconstrained in relation to:

- (a) Storm tide flooding;
- (b) Riverine flooding;
- (c) Localised stormwater flooding;

in accordance with the land suitability assessment and stormwater management plan.

2. The consent authority must not consent to a subdivision unless the relevant government agencies, local government council and service authorities provide formal comment to the consent authority in relation to the land suitability assessment and stormwater management plan and the possibility of storm tide flooding, riverine flooding and localised stormwater flooding of the identified 1ha of land.

3. The consent authority may consent to an application that is not in accordance with sub-clauses 4-7 if the application includes preliminary land assessment and stormwater management plans prepared by the applicant and approved by the relevant government agency and or service authority, demonstrating that 1ha of land per lot and all internal roads are unconstrained by localised stormwater flooding and by those issues addressed in the NT Land Suitability Guidelines.

#### Requirements

4. Each lot is to have unconstrained access from a public road to the identified unconstrained land.

Both of the proposed Lots have direct access from Oxford Road.





*Existing entrance into proposed Lot A*

*5. An application to subdivide rural or unzoned land should include the following documents prepared by suitably qualified professionals:*

- (a) a land suitability assessment addressing the NT Land Suitability Guidelines; and*
- (b) a stormwater management plan including but not limited to; the potential impact on neighbouring land, external roads, internal roads and the 1ha of land identified as unconstrained, the upstream and downstream flows and any proposed mitigation measures.*

A Land Suitability Assessment (LSA) and a stormwater management plan are included with this application.

*6. The subdivision design must address the constraints as identified in the land suitability assessment and stormwater management plan in relation to the location of internal roads, lot boundaries and the identified 1ha of unconstrained land.*

The LSA confirms that the subject land is not constrained and consequently both of the proposed lots comprise well in excess of 1 hectare of unconstrained land.

*7. An application to subdivide land on the maps "Priority Environmental Management Areas – Litchfield" and "Priority Environmental Management Areas – Katherine" as an area potentially of environmental significance should, on the advice of the relevant government agency, be accompanied by and the consent authority shall have regard to an evaluation by a suitably qualified professional of the environmental significance of the native vegetation and land form (e.g. lagoons, wetlands, rugged terrain and drainage systems).*

No areas of environmental significance are identified on the subject land on the map 'Priority Environmental Management Areas – Litchfield'.

8. An application described in sub-clause 7 must demonstrate that the proposed subdivision design does not adversely affect the environmental values as identified in the evaluation.

Not applicable

9. Subdivision design of rural and unzoned land should:

- (a) Retain and protect significant natural and cultural features;
- (b) Minimise the number of lots in, or exclude from subdivision, areas of high conservation significance and riparian zones;
- (c) Minimise alteration or disturbance to natural drainage systems including drainage areas, recognisable watercourses, lagoons and permanent and semi-permanent springs; and
- (d) Minimise erosion hazard, sedimentation and pollution of watercourses.

The proposal does not impact any significant natural or cultural features, does not impact any watercourses or drainage systems and will not result in any increased potential for erosion.



Existing entrance into proposed Lot B

#### 6.3.4 Infrastructure for Subdivision in Zones RL, R and Unzoned Land

##### Purpose

Ensure that subdivision of land in Zones RL, R and unzoned land, is integrated with infrastructure, community services and facilities and will not unreasonably affect the environment.

##### Administration

2. The consent authority may consent to a subdivision that is not in accordance with sub-clauses 2-7, only if it is satisfied the subdivision is consistent with the purpose of this clause.

### Requirements

3. *Minimise disturbance through earthworks associated with the provision of infrastructure.*

There will be no earthworks associated with the proposed subdivision.

4. *Provide for connection to reticulated services where practical.*

Proposed Lot B is connected to the power reticulation in Oxford road and Lot A can also utilise this reticulation if required. Reticulated water is not available in this locality but each of the proposed Lots will comprise an existing bore to provide potable water.

4. *Where no reticulated sewerage is available, a site and soil evaluation report must be completed by an appropriately qualified site-and-soil evaluator demonstrating that onsite wastewater management systems can be installed on each lot in accordance with the requirements of the Code of Practice for Wastewater Management.*

Proposed Lot B already comprises an existing onsite wastewater treatment system that operates effectively. A soil evaluation report is attached to this application conforming that proposed Lot A comprises soils that are suitable for the operation of an onsite system.

5. *Where no reticulated water is available, demonstrate that an adequate supply of groundwater is available for domestic purposes.*

Reticulated water is not available in this locality. There are existing bores on both of the proposed Lots and Water Resources Division of (then) Department of Environment, Parks and Water Security has confirmed that the underlying aquifer has enough water to supply the one additional parcel being proposed by this application.

6. *Roads should:*

(a) *be designed to:*

- i. interconnect with the existing road network;*
- ii. provide for connections to potential future subdivisions of adjoining lands;*
- iii. provide a clear hierarchy of roads; and*
- iv. minimise individual lot access to major roads;*

(b) *respond to the physical characteristics of the land by:*

- i. following ridge lines or contours where possible; and*
- ii. where crossing watercourses be positioned at right angles to the watercourse and minimise the number of crossing points;*

(c) *be sealed where lot sizes are 2ha or less;*

(d) *be located above the 1.0% AEP flood line or any seepage line, whichever is the higher;*

(e) *be designed with discharge drains placed to minimise erosion and associated engineering and maintenance costs;*

(f) *provide direct access to lots and avoid battle-axe strips, however, where justified, battle-axe strips should be:*

- i. not less than 10m wide; and*
- ii. less than 250m in length.*

The subdivision does not involve any new roads.

Proposed Lot A will be a battle-axe allotment but this is justified as it provides the opportunity to best utilise the available land resource and the land comprised within Lot A already has an established access from Oxford Road. The battle-axe handle covers the existing, established driveway adjacent to the eastern boundary, is the required 10m wide and is only 136m long.

7. *Where a road crosses a tidal arm in a rural subdivision it is expected to have a minimum elevation of RL 8m AHD and be designed to enable a discharge of at least a 5.0% AEP flood event.*

Not applicable as the proposal does any involve any new roads.





**30C(4)(a) – Compliance with an Interim Development Control Order**

The subject land is not subject to any Interim Development Control Orders.

**30C(4)(b) – Public Environmental Report or Environment Impact Statement**

There is no requirement for the proposed development to be referred to the NT EPA under Part 4, Division 3 of the Environment protection Act 2019 and the proposed development has not been referred to the NT EPA under that legislation.

**30C(4)(c) – Assessment of the proposed amendment with respect to 30D(4A):**

This concurrent application includes a separate report that deals with the proposed amendment to the NT Planning Scheme

**30C(4)(d) – The physical characteristics of the land**

The contours depicted on plan 24/13028/1A have been generated from Geoscience Australia data and indicate that the land slopes steadily down from east to west and south to north.

Land unit mapping obtained from the Department of Land, Planning and Environment indicates that all of the land comprised within the proposed Lots is made up of land unit 3c

Land unit 3c is defined as: flat to gently undulating upland surface with grades ranging from 1-3%; site drainage is moderately rapid; soils are shallow to moderately deep gravelly yellow massive earths, minor lateritic lithosols; Eucalypt woodland to open forest.

Proposed Lot B has an existing wastewater treatment system adjacent to the existing residence and this has operated effectively for many years.

Proposed Lot A comprises soils capable of supporting an on-site wastewater treatment system (confirmed by the attached Soil Evaluation).

No native vegetation will be affected by the development proposal.

**30C(4)(e) – Public facilities or open space**

The proposal does not create a demand for any additional public facilities or open space and the new residents will be able to utilise the existing facilities in the locality.

**30C(4)(f) – Public utilities and infrastructure**

Reticulated power is available in Oxford Road and proposed Lot B has an existing connection.

Proposed Lot A has the option of also connecting to the Oxford Road reticulation or utilising a solar system to generate its power requirements.

There is an existing bore on each of the proposed Lots (RN43183 on Lot A and RN36710 on Lot B) and the water licensing authority has confirmed that there is sufficient capacity in the aquifer to support the proposed, one additional parcel.

Onsite systems will be utilised for the treatment and disposal of wastewater and both lots will be accessed from a sealed public road that is connected to an established road network.

**30C(4)(g) – Potential impact on the existing and future amenity of the area**

This application is only proposing the creation of one additional allotment and will have little if any impact on the existing or future amenity of the area.

**30C(4)(h) – Assessment of the benefit or detriment to the public interest of the development**

There will be no detriment to the public interest however the proposal will create an additional living option in close proximity to the Berry Springs rural activity centre.

**30C(4)(ha) – Restricted Water Extraction Area**

The proposal does not fall within a declared Restricted Water Extraction Area.

**30C(4)(i) – Building regulations**

No new boundaries are being created in close proximity to the existing buildings on Lot 11.

**30C(4)(j) – Unit Titles Act**

Not applicable



16/05/2025

Lands Planning and Development Assessment Services  
Department of Lands, Planning and Environment  
GPO Box 1680  
Darwin NT 0801

**RE: Letter of Comment Planning Scheme Amendment Application**

**PA2025/0041**

**Hun: 045 LTO: 76018 P: 00011 100 Oxford Road BERRY SPRINGS, Hundred of Ayers  
A proposed Concurrent Application to Rezoning from Zone R (Rural) to Zone RL (Rural Living)**

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Thank you for the Planning Scheme Amendment Application referred to this office on 17/04/2025, concerning the above. This letter may be tabled at Litchfield Council's next Council Meeting. Should this letter be varied or not endorsed by Council, you will be advised accordingly.

**Council supports the granting of a Planning Scheme Amendment for the following reasons:**

- a) Although not entirely obvious in the Litchfield Subregional Land Use Plan, Oxford Road is adjacent to the boundary identifying a transition from rural residential to rural living, implying that the future development of this transitional area should be to rural living zoned land.
- b) The location is heavily reliant upon the sustainability of ground water, though in the statement of effect it is noted that Water Resources has indicated that the zoning and subdivision would be supported.

**Council supports the granting of a Development Permit for the following reasons:**

- a) Should the Planning Scheme Amendment be approved to rezone the parcel to Rural Living, the provided Land Suitability supports the subdivision. Noted above, the Water Resources indicated that subdivision would be supported also.
- b) Council supports rural lifestyle choice and supports subdivision of suitable land outside rural activity centres.

**Should the application be approved, the Council requests the following condition(s) be included as Condition(s) Precedent in any Development Permit issued by the consent authority:**

- a) 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.

**Should the application be approved, the following condition(s) pursuant to the *Planning Act* and Council's responsibility under the *Local Government Act* are also recommended for inclusion in any Development Permit issued by the consent authority:**

- a) A monetary contribution is required to be paid to Litchfield Council in accordance with its development contribution plan.
- b) 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.

**Note:** Design drawings shall be approved by Litchfield Council prior to construction of the works.

- c) All existing or proposed easements or reserves required for the purposes of stormwater drainage, roads, access or for any other purpose, shall be made available free of cost to, and in favour of, Litchfield Council and/or neighbouring property owners.

**Should the application be approved, the following notes are recommended for inclusion in any Development Permit issued by the consent authority:**

- a) Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at [www.litchfield.nt.gov.au](http://www.litchfield.nt.gov.au).
- b) 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.

If you require any further discussion in relation to this application, please contact Litchfield Council on 08 8983 0600.

Kind Regards,



Jaimie O'Connor  
Planning and Development Program Leader

Phone 1800 245 092

Web [powerwater.com.au](http://powerwater.com.au)

Record number: D2025/174381

Container number: NE045/0011/76018

Your ref: PA2025/0041

Rory Mackay  
Development Assessment Services  
GPO Box 1680  
Darwin NT 0801

Dear Rory

**Re: Lot 11 (100) Oxford Road Berry Springs Hundred of Ayers**

In response to your letter of the above proposal for the purpose of rezoning from Zone R (Rural) to Zone RL (Rural Living) and Subdivision to create two lots with existing building structures, Power and Water (PWC) advises the following with reference to electricity enquiries:

1. The Proponent shall need to submit a Negotiated Connection application under Australian Energy Regulator (AER) compliance process for PWC assessment on applicable upgrade works.
2. PWC does not support new axe-handled lot and specific power service compliance to the proposed 137m long axe-handled Lot A (6.1ha) is as follows:
  - An AS-3000 maximum demand calculation by a licensed electrician for all existing building structures and proposed new building(s).
  - Establishment of a suitable point of power supply at the front boundary of the axe-handled lot is required with sufficient capacity from existing Substation 10796.
3. Existing power service to Lot 11 will remain unchanged to the proposed Lot B with the existing residence and shed.
4. The Proponent shall engage a licensed electrician to carry out the following customer's internal works:
  - Installation of appropriate customer's internal electrical reticulation on proposed Lot A from a new meter switchboard at the front boundary along the axe-handled access to all existing building structures to comply with acceptable voltage drop in accordance with PWC NP018 – Service and Installation Rules 2024 and NP010-Meter Manual.
  - Removal of any existing internal electrical reticulation in between proposed Lots A and B.

If you have any further queries, please contact Andrew Venhuizen, Senior Customer Connections Officer on 8924 5700 for customer's installation compliance or Luke Nielsen on 8924 5195 for applicable upgrade charge.

Yours sincerely



Thanh Tang  
Manager Distribution Development

06 May 2025

**POWER AND WATER CORPORATION**

GPO Box 1921, Darwin NT 0801 | ABN 15 947 352 360



Mr Rory Mackay  
Development Assessment Services  
Department of Lands, Planning and Environment  
GPO Box 1680  
DARWIN NT 0801

Dear Mr Mackay

**Re: PA2025/0041 Rezoning from Zone R (Rural) to Zone RL (Rural Living) & Subdivision to create two lots**

The above application has been assessed by the relevant environmental divisions within the department and the following comment is provided:

#### **Flora and Fauna Division**

Based on a search of the Department of Lands, Planning and Environment (DLPE) databases within 2km of the application site, expert knowledge of species' habitat requirements, and information about habitats occurring within the site, the following species classified as threatened under the *Territory Parks and Wildlife Conservation Act 1976* (TPWC Act) and/or the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) may occur within, or immediately adjacent to, Lot 11 Hundred of Ayres. **Table 1** provides an assessment of the potential risks posed by the project to each species, based on current available information (including that provided by the proponent) and indicates whether the available information is sufficient to make a full assessment, including identifying where further surveys are required to address important information gaps.

**Table 1** – Threatened species that are known to occur, or have a high potential of occurring, within the proposed footprint, their conservation status and an assessment of the risk of impact posed by the proposal.

Conservation status: VU – Vulnerable; EN – Endangered; CR – Critically Endangered.

Common Name	Scientific Name	TPWC Act Status	EPBC Act Status	Risk of potential impact	Survey required
<b>Fauna</b>					
Bare-rumped Sheath-tailed Bat	<i>Saccolaimus saccolaimus</i>	-	VU	Low	No
Black-footed Tree-rat (Kimberley and mainland Northern Territory)	<i>Mesembriomys gouldii gouldii</i>	EN	EN	Low	No

Common Name	Scientific Name	TPWC Act Status	EPBC Act Status	Risk of potential impact	Survey required
Fawn Antechinus	<i>Antechinus bellus</i>	EN	VU	Low	No
Northern Brushtail Possum	<i>Trichosurus vulpecula arnhemensis</i>	-	VU	Low	No
Northern Quoll	<i>Dasyurus hallucatus</i>	CR	EN	Low	No
Pale Field-rat	<i>Rattus tunneyi</i>	VU	-	Low	No
Partridge Pigeon (eastern)	<i>Geophaps smithii smithii</i>	VU	VU	Low	No
Yellow-spotted Monitor	<i>Varanus panoptes</i>	VU	-	Low	No
Flora					
Darwin Cycad	<i>Cycas armstrongii</i>	VU	-	Low	No

### Threatened Species

Satellite imagery shows that the native vegetation within Lot 11 Hundred of Ayres is relatively intact. The Flora and Fauna Division notes that the CNV – Clearing of Native Vegetation overlay will apply to each of the proposed new lots, which requires consent for the clearing of more than one hectare in aggregate of land (including any area already cleared of native vegetation).

The Flora and Fauna Division considers the risk to threatened species from the proposal to be low and no targeted threatened species surveys are required. This is based on the availability of suitable habitat elsewhere in the area, the relatively low level of clearing proposed and the CNV overlay applying to each of the proposed lots. This is discussed further in **Attachment 1**.

The Flora and Fauna Division have reviewed the application and consider that the proposal poses a low risk to threatened species and biodiversity.

### Water Resources Division

#### Licensing and Regulations

The associated land is located within the Darwin Rural Adelaide River Water Control District. As such, a permit is required for investigative drilling, bore construction or work on any existing bores.

As can be noted in NR Maps, there are records of two existing registered bores having been drilled and constructed on the land, RN036710, and RN043183. Each bore is reported to have a yield of 0.5-2.5 L/s.

There are currently no surface water extraction licence/s associated with the land. In the Northern Territory (NT), a surface water extraction licence is necessary if water is to be used for any purpose other than stock and domestic, or road construction and maintenance.

There are currently no groundwater extraction licence/s associated with the land. As the land is within a Water Control District, a groundwater extraction licence is necessary if water is to be used for any purpose other than stock and domestic, or road construction and maintenance.

The land overlies a localised Groundwater System within the 'Berry Springs' water management zone. The Berry Springs water allocation plan 2016-2026 (the Plan) applies to the area. The Plan is considered as the appropriate method of assessing water availability and allocations for the resource.

According to the Plan it must be understood by all water users in the NT that: their rights to extract and use water, whether under the *Water Act 1992* (for example for stock and domestic purposes) or under a licence, are not, and cannot be, guaranteed by the Northern Territory Government. Though within the Plan area, the land does not overlay the Berry Springs Dolostone aquifer, which is estimated as an "Over-allocated" area. There is no reticulated water supply within the Plan area.

It is an offence to interfere with a waterway without authorisation. Proponents intending to interfere with a waterway must apply for a permit prior to any such activity. Further information is available online<sup>1</sup>. There are no rivers, creeks or streams crossing the land.

### **Planning and Engagement Unit**

There are no issues of concern requiring comment within the responsibilities of the Planning & Engagement Unit associated with the proposed rezoning.

Information about water resource management is available on the DLPE website<sup>2</sup>. Please contact water resources [water.licensing@nt.gov.au](mailto:water.licensing@nt.gov.au) for licensing requirements.

### **Rangelands Division**

#### **Land Assessment Branch**

A field inspection has indicated that Lot 11 Hundred of Ayres is located on a gently undulating plain with moderately well drained gravelly brown earths and in some areas yellow earths. The vegetation comprises two communities described below. Both communities are indicative of soils that are moderately well drained.

The vegetation at the front of the lot (proposed Lot B) is a mid-woodland of *Eucalyptus miniata* and *Eucalyptus tetradonta* with a dense understorey of *Erythrophleum chlorostachys*, *Acacia auriculiformis*, *Alphitonia excelsa*, *Terminalia ferdinandiana*, *Planchonia careya*, *Persoonia falcata* and other species.

Much of proposed Lot A comprises a mixed species woodland of *Corymbia foelscheana* and other species including *Canarium australianum*, *Terminalia grandifolia*, *Xanthostemon paradoxus*, *Planchonia careya*, *Exocarpos latifolius*, *Calytrix exstipulata* and *Cycas armstrongii*.

Each proposed lot contains >1ha of land unconstrained by drainage issues, and the access to each proposed lot is similarly unconstrained by drainage.

### **Land Management Unit**

Due to the application being for rezoning and subdivision, and it specifically states there are no earthworks proposed, the Land Management Unit does not require an Erosion and Sediment Control Plan (ESCP) condition on the Development Permit. However, it is important that erosion and sediment control measures are employed throughout the development stage in accordance with the recommended condition below.

1. For the purposes of best practice land management and environmental protection, it is recommended that:
  - prior to the commencement of works an ESCP is developed;
  - the ESCP is implemented throughout the construction phase including clearing and early works; and

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<sup>1</sup> <https://nt.gov.au/environment/water/licensing/interfere-with-waterway>

<sup>2</sup> <https://nt.gov.au/environment/water>

- all disturbed soil surfaces are stabilised against erosion at completion of works.
2. Resources regarding erosion and sediment control is available on the IECA website [www.austieca.com.au](http://www.austieca.com.au) 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.

### **Weed Management Branch**

A desktop assessment of the NT Weeds Database for the application area, surrounding areas and adjoining land tenures has revealed records of the following weed species:

Common Name	Botanical Name	Declared
Gamba grass	<i>Andropogon gayanus</i>	Class B

All land in the NT is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to all persons, owners and occupiers of land regarding declared and potential weeds. General duties described in Division 1 of the WM Act include the requirement for owners or occupiers of land to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading.

Gamba grass is subject to a statutory management plan<sup>3</sup> that must be adhered to.

Regarding the 'Darwin Regional Weeds Strategy 2016 – 2026', gamba grass is a Category 2 weed, meaning it is a priority weed for strategic control. This is due to its high impact on land managers and other economic and environmental values. Gamba grass is assessed as very high risk.

Any works that cause disturbance to native vegetation and soils will create favourable conditions for the growth of weed species. Should the application be successful, it will be of the utmost importance to ensure that no weeds are introduced or spread during the excavation and fill process. Best practice to prevent weed introduction and spread dictates that:

- vehicle and machinery are clean of weeds and soils containing weeds prior to commencement and washed/blown down after and between locations;
- where possible, areas known to contain weeds are strategically cleared last to prevent weed spread to otherwise weed free locations; and
- ongoing surveillance and treatment of weed species will be required on site until preferred species are established and maintained.

'Preventing weed spread is everybody's business' is a document highlighting the areas of risk for all activities associated with weed spread. The document details the pathways through which weeds are spread and provides actions to reduce weed spread. Proponents seeking to develop land for any purpose should address these actions. This document is available online<sup>4</sup>.

Further information as to weed management requirements and the Weed Management Plan for gamba grass are available online<sup>5</sup>, alternatively contact the Weed Management Branch for further advice on (08) 8999 4567.

<sup>3</sup> [https://nt.gov.au/\\_data/assets/pdf\\_file/0006/954789/weed-management-plan-for-gamba-grass-2020-2030.pdf](https://nt.gov.au/_data/assets/pdf_file/0006/954789/weed-management-plan-for-gamba-grass-2020-2030.pdf)

<sup>4</sup> [https://environment.nt.gov.au/\\_data/assets/pdf\\_file/0011/257987/preventing-weed-spread.pdf](https://environment.nt.gov.au/_data/assets/pdf_file/0011/257987/preventing-weed-spread.pdf)

<sup>5</sup> <http://www.nt.gov.au/environment/weeds>

## **Environment Division**

### **Heritage Branch**

#### **Context of Heritage Branch Advice**

The NT Government's Heritage Branch administers the *Heritage Act 2011* and provides authoritative advice about obligations under the *Heritage Act 2011*, including steps to take to manage the impact of proposed work on Aboriginal and Macassan archaeological places and objects.

It is important that advice given by the Heritage Branch is followed. A failure to follow advice received from the Heritage Branch may be considered as evidence in an investigation if damage occurs to a declared heritage place, an Aboriginal or Macassan archaeological place or object.

#### **Relevant parts of the NT's *Heritage Act 2011*:**

1. All provisionally declared and declared heritage places and objects are protected under the *Heritage Act 2011*;
2. All Aboriginal or Macassan archaeological places and objects are automatically protected – this includes places and objects not previously recorded;
3. Places and objects include an artefact or thing given shape by a person - examples include stone tools, stone arrangements, fish traps, rock art, modified trees, and shell middens;
4. Ancestral remains are also protected;
5. Underwater Cultural Heritage is protected, up to three nautical miles from the coast; and
6. There is an obligation to notify of the discovery of Aboriginal or Macassan archaeological places or objects.

#### **Conditions of advice**

1. This advice is based on the description of the works provided to the Heritage Branch. If the work expands or changes significantly seek further advice.
2. In preparing this advice, the Heritage Branch has referred to the NT Heritage Register and the Heritage Branch archaeological database which includes information about Aboriginal and Macassan archaeological places and objects in the NT. However, the database only includes information about known archaeological places. The fact that there are no known archaeological places recorded may be because no archaeological surveys have been conducted in that particular area and is not necessarily an indication they do not exist.

#### **Actions**

The following actions have been taken in relation to the enquiry:

- A search of the NT Heritage Register;
- A search for known archaeological places located within the subject site on the Heritage Branch archaeological database;
- A search for known archaeological places located within the proximity of the subject site on the Heritage Branch archaeological database;
- The extent of pre-existing ground disturbance;
- The scale and nature of the work proposed (major, moderate or minor);
- Areas identified as being excluded from the work footprint e.g. riparian buffers; and

- An assessment of the likelihood of unrecorded archaeological places existing within the subject site, based on landscape features, known archaeological places in the vicinity, and other predictive tools.

## Advice

A search has found that there are no known Aboriginal or Macassan archaeological places and objects within the subject site. However, the possibility of possible unrecorded Aboriginal or Macassan archaeological places has been assessed as likely. Significant archaeological places have been recorded in this region or land system, including quarrying sites, camping places, and shell middens. While the necessary fencing for this subdivision application is unlikely to create substantial impact on the block, future works will likely require an archaeological assessment to effectively manage risks to unrecorded archaeological places and objects. If any archaeological places are discovered during fencing works, establish an exclusion zone around the site and contact the Heritage Branch immediately.

The search has found that there are no nominated, provisionally declared or declared heritage places or objects within the subject area.

Should you have any further queries regarding these comments, please contact the Development Coordination Branch by email [DevelopmentAssessment.DEPWS@nt.gov.au](mailto:DevelopmentAssessment.DEPWS@nt.gov.au) or phone (08) 8999 4446.

Yours sincerely



Maria Wauchope  
Executive Director Rangelands

23 May 2025

**Attachment 1** - Species identified as being at low risk of impact by the project (Table 1)



# Attachment 1

## Species identified as being at low risk of impact by the project (Table 1)

Fauna species: These species are typically associated with woodland habitats which are widespread and extensive through the region. The Flora and Fauna Division considers that the risk to each of these species is low due to the limited amount of clearing proposed. The Flora and Fauna Division also notes that Cane Toads are a key threat to the Northern Quoll and Yellow-spotted Monitor and the proposed rezoning and subdivision is unlikely to exacerbate this threat.

Darwin Cycad: High density stands of cycads are considered to be a priority for the conservation of the species. The risk from clearing low density stands (<400 stems/ha) within the lots is considered to be low and unlikely to pose a risk to the overall status of the species.

While the risks are low, impacts to local cycad populations or individuals can be further reduced by applying the principles outlined in the *Management Program for Cycads in the Northern Territory of Australia 2009-2014*. This could include conservation or salvage from the area and may require appropriate permits if salvage for commercial purposes is proposed, permits are available from the Parks and Wildlife office<sup>6</sup>.

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<sup>6</sup> <https://nt.gov.au/parks/contact-parks-and-wildlife>

# Technical Assessment PA2025/0041

## TECHNICAL ASSESSMENT OF PROPOSED DEVELOPMENT AGAINST RELEVANT PROVISIONS OF THE NORTHERN TERRITORY PLANNING SCHEME 2020

Application No:	PA2025/0041
Lot number:	Lot 11, (100 Oxford Road, Berry Springs)
Town/Hundred:	Hundred of Ayers
Zone (Proposed):	RL (Rural Living)
Site Area:	8.1ha
Proposal:	Subdivision to create two (2) lots of 2ha and 6.1ha respectively
Plans used for assessment:	24/13028/1A dated 13 January 2025
Date assessment finalised:	30 May 2025

The proposed development requires consent under the *Northern Territory Planning Scheme 2020* (NTPS 2020) as described in the below table:

			Zone RL (Rural Living)	
Use	Assessment Category	Overlays	Zone	Subdivision Requirements
Subdivision	Impact Assessable	Overlay 3.2 CNV (Clearing of Native Vegetation)	4.7 Rural Living	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

The proposed subdivision requires consent under the NTPS 2020 as outlined below.

### Clause 1.8(1)(c)(ii)

(c) *Impact Assessable* – use and development that requires the exercise of discretion by the consent authority to determine if it is appropriate given the location of the site and the potential impacts on surrounding uses, and if it accords with the Strategic Framework.

Use and development of land requires consent and is *Impact Assessable* when any of the following apply:

ii. it is for the subdivision of land other than that included at Clause 1.8(1)(b)(iii);

### Clause 1.10 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.

*This is a technical assessment of the proposal against the requirements of the Northern Territory Planning Scheme 2020 (NTPS2020) and is no indication of whether or not approval will be given by the consent authority.*

## 2.0 Strategic Framework

In accordance with subclause 2.2 (4) of NTPS 2020, the Strategic Framework guides the interpretation of all Parts of the NTPS 2020:

*Where there is inconsistency between the components of the Strategic Framework, Area Plans, providing the most detailed level of guidance, prevail over higher-order Land Use Plans and Strategic Planning Policies to the extent of any inconsistencies.*

*Subregional Land Use Plans, Regional Land Use Plans and Strategic Planning Policies will guide interpretation of the Planning Scheme when:*

- (a) there is no applicable Area Plan;*
- (b) the Area Plan does not provide guidance on a particular issue;*
- (c) a use or development does not accord with an Area Plan; or*
- (d) a new Area Plan is being created or a change is proposed to an existing Area Plan.*

The Darwin Regional Land Use Plan (DRLUP) and the Litchfield Sub-Regional Land Use Plan (LSRLUP) are relevant to the subject site and identify the land for Rural Lifestyle, and Rural Area development. The LSRLUP which provides the most detailed level of guidance, in this instance, outlines the following objectives for such identification:

- *Maintain rural amenity and lifestyle choice.*
- *Provide opportunity for residential land uses in the Rural Area to meet market demand.*

It is considered the subject two-lot subdivision in the Berry Springs locality is generally consistent with these objectives as it provides a further lot for the rural lifestyle development above the proposed Rural Living zoning minimum lot size requirement of 2ha, on non-prime agricultural land that is capable of supporting such use as detailed within the land capability assessment, stormwater assessment and site soil evaluation of the application.

## COMPLIES

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### 3.2 Overlay - CNV (Clearing of Native Vegetation)

#### Purpose

*Identify areas with limits to the clearing of native vegetation and ensure that clearing in these areas does not:*

- (a) impact on the conservation values of land within Zone CN; or*
- (b) unreasonably contribute to environmental degradation of the locality.*

#### Administration

*1. The clearing of native vegetation of more than one hectare in aggregate of land (including any area already cleared of native vegetation) within the area subject to the Clearing of Native Vegetation Overlay requires consent. This Overlay applies to land within Zones RR, RL, R, H, A, CP, CN, RD, WM and Unzoned land.*

*3. The consent authority may consent to the clearing of native vegetation that is not in accordance with subclause 5 only if it is satisfied that it is consistent with the purpose of this requirements and is appropriate in the context of the site and the locality having regard to such matters as:*

- (a) the suitability of the site for the proposed use;*

- (b) the values associated with the environmental characteristics (as applicable);
  - (c) the significance, extent and likelihood of any potential environmental impacts; and
  - (d) the measures the application proposes will be implemented to mitigate any potential impacts.
4. This Overlay does not apply if the clearing of native vegetation is required or controlled under any Act in force in the Territory, or is for the purpose of:
- (a) a firebreak as specified by the Bushfires Management Act 2016 or the Fire and Emergency Act 1996, up to 5m wide along a boundary of a lot having an area of 8ha or less, up to 10m wide on a lot having an area greater than 8ha unless otherwise specified by a Regional Fire Control Committee;
  - (b) an internal fence line up to 10m wide on a lot having an area greater than 8ha;
  - (c) a road to access the land or other land; or
  - (d) the maintenance and repair of public infrastructure.

#### Requirements

5. The clearing of native vegetation is to:
- (a) avoid impacts on environmentally significant or sensitive vegetation;
  - (b) be based on land capability and suitability for the intended use;
  - (c) avoid impacts on drainage areas, wetlands and waterways;
  - (d) avoid habitat fragmentation and impacts on native wildlife corridors; and
  - (e) avoid impacts on highly erodible soils.
6. An application for the clearing of native vegetation is to demonstrate consideration of the following:
- (a) the Land Clearing Guidelines (as amended from time to time) by the agency responsible for natural resources and the environment;
  - (b) the presence of threatened wildlife as declared under the Territory Parks and Wildlife Conservation Act 1976;
  - (c) the presence of sensitive or significant vegetation communities such as rainforest, vine thicket, closed forest or riparian vegetation;
  - (d) the presence of essential habitats, within the meaning of the Territory Parks and Wildlife Conservation Act 1976;
  - (e) the impact of the clearing on regional biodiversity;
  - (f) whether the clearing is necessary for the intended use;
  - (g) whether there is sufficient water for the intended use;
  - (h) whether the soils are suitable for the intended use;
  - (i) whether the slope is suitable for the intended use;
  - (j) the presence of permanent and seasonal water features such as billabongs and swamps;
  - (k) the retention of native vegetation adjacent to waterways, wetlands and rainforests;
  - (l) the retention of native vegetation buffers along boundaries;
  - (m) the retention of native vegetation corridors between remnant native vegetation;
  - (n) the presence of declared heritage places or archaeological sites within the meaning of the Heritage Act 2011; and
  - (o) the presence of any sacred sites within the meaning of the NT Aboriginal Sacred Sites Act 1989.

Development works/ vegetation clearing for the subdivision is to be at minimum, and under the 1ha cumulative threshold, to formalise somewhat existing fence lines, firebreaks and driveway access to the 1ha unconstrained portion of the proposed additional parcel (battle-axe configuration).

#### **COMPLIES**

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## 4.7 Zone R – Rural

### Zone Purpose

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*Provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.*

#### Zone Outcomes

- 1. Predominantly dwellings-single and dwellings-independent within a rural lifestyle setting.*
- 2. Home based businesses and dwellings-community residence are of a scale, intensity and nature that is compatible with the character and amenity of the surrounding locality.*
- 3. Residential development, such as residential care facilities, does not interfere with the character and amenity of the zone.*
- 4. Rural activities, such as agriculture, animal boarding, horticulture, intensive animal husbandry, plant nursery, industry-primary, stables, and veterinary clinic where the scale, intensity and nature of the activity is compatible with the character and amenity of the surrounding locality and the land is capable of supporting the development.*
- 5. Development for residential purposes does not interfere with the existing or ongoing use of rural land for productive agricultural or horticultural purposes.*
- 6. Community focused activities, such as community centre, child care centre, and emergency management facility:*
  - a. are of a scale and intensity compatible with the character and amenity of the area;*
  - b. wherever possible, are co-located with other non-residential activities in the locality;*
  - c. avoid adverse impacts on the surrounding road network; and*
  - d. are managed to minimise unreasonable impacts on the amenity of surrounding residents.*
- 7. The design and site layout of all development are sympathetic to the existing streetscape, scale and character of surrounding development.*
- 8. Development does not impose unsustainable demands on surface water and groundwater.*
- 9. Subdivision design is informed by land suitability assessment to confirm the land is able to support residential development.*
- 10. Development is provided with an appropriate level of services and infrastructure, and minimises impacts on sensitive environments.*
- 11. Development that is not defined in Schedule 2 (Definitions) may occur only when assessment has determined that the development is appropriate in the zone, having regard to the purpose and outcomes of this zone and such matters as the location, nature, scale and intensity of the development.*

The proposed subdivision is generally in accordance with the above zone purpose and outcomes as it will provide low-density rural lifestyle lots of an appropriate size which respond to the site's physical characteristics as supported by the application's land suitability assessment. Infrastructure servicing for the proposed lots is appropriate for the Berry Springs locality and does not impose unsustainable demands or impacts on surface and ground water resources.

#### **COMPLIES**

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### **6.3.2 Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land**

#### Purpose

*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.*

#### Administration

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1. The consent authority may consent to a subdivision that is not in accordance with sub-clauses 5-10 if it is satisfied that:
  - (a) the subdivision does not result in an increased lot yield; and
  - (b) the lot size and/or configuration 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.
4. The unconstrained nature of the land is to be demonstrated by a land suitability assessment addressing the NT Land Suitability Guidelines, in accordance with clause 6.3.3.

#### Requirements

5. Land is to be subdivided in accordance with the table to this clause.
6. Lots have a depth to width ratio not exceeding 4:1.
7. Incorporate as far as practicable, drainage lines and drainage floors wholly within a single lot.
8. Allow for 70m separation between bores, both proposed and existing.
9. Lot boundaries are to be:
  - (a) at right angles to any watercourse;
  - (b) sufficiently up slope to be outside of seepage zones where following drainage lines; and
  - (c) at right angles to contours or along contours where slope is between 2.0% and 5.0% and follow ridge lines, spurs or contours where slope is above 5.0%.
10. Minimise the number of watercourse crossings.

Table to Clause 6.3.2: Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land	
Zone	Minimum Lot Size and Requirements
RL	2ha with a minimum of 1ha of unconstrained land

The proposed subdivision complies with the requirements of this clause to result in two lots which are of a size and configuration suited for the intended rural lifestyle land use as supported by a land suitability assessment.

#### **COMPLIES**

### **6.3.3 Site Characteristics for Subdivision for Lots of 1ha or Greater in Zones RR, RL, R and H, and Unzoned Land**

#### Purpose

Ensure subdivision of land in Zones RR, RL, R and H, and unzoned land, responds to the physical characteristics of the land.

#### Administration

1. The consent authority must not consent to a subdivision that does not include 1ha of land per lot in Zones RL, R and Unzoned Land, and 25ha in Zone H, identified as unconstrained in relation to:
  - (a) Storm tide flooding;
  - (b) Riverine flooding;
  - (c) Localised stormwater flooding;



in accordance with the land suitability assessment and stormwater management plan.

2. The consent authority must not consent to a subdivision unless the relevant government agencies, local government council and service authorities provide formal comment to the consent authority in relation to the land suitability assessment and stormwater management plan and the possibility of storm tide flooding, riverine flooding and localised stormwater flooding of the identified 1ha of land.

3. The consent authority may consent to an application that is not in accordance with sub-clauses 4-7 if the application includes preliminary land assessment and stormwater management plans prepared by the applicant and approved by the relevant government agency and or service authority, demonstrating that 1ha of land per lot and all internal roads are unconstrained by localised stormwater flooding and by those issues addressed in the NT Land Suitability Guidelines.

#### Requirements

4. Each lot is to have unconstrained access from a public road to the identified unconstrained land.

5. An application to subdivide rural or unzoned land should include the following documents prepared by suitably qualified professionals:

(a) a land suitability assessment addressing the NT Land Suitability Guidelines; and

(b) a stormwater management plan including but not limited to; the potential impact on neighbouring land, external roads, internal roads and the 1ha of land identified as unconstrained, the upstream and downstream flows and any proposed mitigation measures.

6. The subdivision design must address the constraints as identified in the land suitability assessment and stormwater management plan in relation to the location of internal roads, lot boundaries and the identified 1ha of unconstrained land.

7. An application to subdivide land on the maps "Priority Environmental Management Areas – Litchfield" and "Priority Environmental Management Areas – Katherine" as an area potentially of environmental significance should, on the advice of the relevant government agency, be accompanied by and the consent authority shall have regard to an evaluation by a suitably qualified professional of the environmental significance of the native vegetation and land form (e.g. lagoons, wetlands, rugged terrain and drainage systems).

8. An application described in sub-clause 7 must demonstrate that the proposed subdivision design does not adversely affect the environmental values as identified in the evaluation.

9. Subdivision design of rural and unzoned land should:

(a) Retain and protect significant natural and cultural features;

(b) Minimise the number of lots in, or exclude from subdivision, areas of high conservation significance and riparian zones;

(c) Minimise alteration or disturbance to natural drainage systems including drainage areas, recognisable watercourses, lagoons and permanent and semi-permanent springs; and

(d) Minimise erosion hazard, sedimentation and pollution of watercourses.

The subject two-lot subdivision as outlined with the supporting land suitability assessment and stormwater assessment responds to the physical characteristics of the site and provides the minimum of 1ha of unconstrained land on each parcel for existing and future building development. Overall, the:

- proposal does not impact on any natural drainage paths;
- proposed boundary lines traverse stable soils and grades similar to the existing property boundaries;
- site is relatively flat with an elevation fall of 6m over 332m (1.8% slope) from the south-east to the north-west;
- site is not at risk of dryland salinity according to the NT Dryland Salinity Hazard Map (1994);
- site is not subject to acid sulfate soils;
- site is not subject to storm tide flooding; and
- site is not mapped as being affected by riverine flooding.

#### **COMPLIES**

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### 6.3.4 Infrastructure for Subdivision in Zones RL, R and Unzoned Land

#### Purpose

Ensure that subdivision of land in Zones RL, R and unzoned land, is integrated with infrastructure, community services and facilities and will not unreasonably affect the environment.

#### Administration

1. The consent authority may consent to a subdivision that is not in accordance with sub-clauses 2-7, only if it is satisfied the subdivision is consistent with the purpose of this clause.

#### Requirements

2. Minimise disturbance through earthworks associated with the provision of infrastructure.
3. Provide for connection to reticulated services where practical.
4. Where no reticulated sewerage is available, a site and soil evaluation report must be completed by an appropriately qualified site-and-soil evaluator demonstrating that onsite wastewater management systems can be installed on each lot in accordance with the requirements of the Code of Practice for Wastewater Management.
5. Where no reticulated water is available, demonstrate that an adequate supply of groundwater is available for domestic purposes.
6. Roads should:
  - (a) be designed to:
    - i. interconnect with the existing road network;
    - ii. provide for connections to potential future subdivisions of adjoining lands;
    - iii. provide a clear hierarchy of roads; and

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  - iv. minimise individual lot access to major roads;
  - (b) respond to the physical characteristics of the land by:
    - i. following ridge lines or contours where possible; and
    - ii. where crossing watercourses be positioned at right angles to the watercourse and minimise the number of crossing points;
    - (c) be sealed where lot sizes are 2ha or less;
    - (d) be located above the 1.0% AEP flood line or any seepage line, whichever is the higher;
    - (e) be designed with discharge drains placed to minimise erosion and associated engineering and maintenance costs;
    - (f) provide direct access to lots and avoid battle-axe strips, however, where justified, battle-axe strips should be:
      - i. not less than 10m wide; and
      - ii. less than 250m in length.
  - 7. Where a road crosses a tidal arm in a rural subdivision it is expected to have a minimum elevation of RL 8m AHD and be designed to enable a discharge of at least a 5.0% AEP flood event.

The subject two-lot subdivision is considered to meet the requirements of this clause as both proposed lots:

- can be connected to reticulated electricity, noting no other grid infrastructure is available for connection to the site;
- are capable for the onsite disposal of wastewater, including separation from existing water bore in the locality, as confirmed by a supporting site and soil evaluation report in accordance with the NT Code of Practice for Wastewater Management;
- can be provided with potable water by means of groundwater access bores with sufficient capacity (as confirmed by DLPE Water Resources Division) in accordance with the Water Beneficial Uses of the Darwin Rural Water Control District the site is located within; and
- have direct individual existing access to Oxford Road.

#### **COMPLIES**

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