



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING NO. 296 – WEDNESDAY 19 FEBRUARY 2025

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

MEMBERS PRESENT: Suzanne Philip (Chair), Adam Twomey, Emma Sharp and Rachel Wright (items 1-3)

APOLOGIES: Rachael Wright (item 4)

LEAVE OF ABSENCE: Rick Grant

OFFICERS PRESENT: Margaret Macintyre (Secretary), George Maly and Steven Kubasiewicz (Development Assessment Services)

COUNCIL REPRESENTATIVE: Jaimie O'Connor

Meeting opened at 11.15 am and closed at 3.10 pm

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

ITEM 1
PA2024/0353
SUBJECT SITE
APPLICANT

DWELLING-SINGLE WITH ANCILLARY DWELLING-INDEPENDENT WITH FLOOR AREA IN EXCESS OF 80M2 AND SEPARATE EFFLUENT DISPOSAL SYSTEM
SECTION 5894 (49) MCGILL ROAD, GIRRAWEE, HUNDRED OF BAGOT
COBY SWEENEY AND ELISHA KENNON

Applicants: Coby Sweeney and Elisha Kennon (landowner) and Ian Kennon (landowner) attended.

RESOLVED
09/25

That, the Development Consent Authority vary the requirements of subclause 5 and 7 of Clause 5.4.13 Dwelling-Independent of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Section 5894 (49) McGill Road, Girraween, Hundred of Bagot for the purpose of Dwelling-single with ancillary dwelling-independent, with floor area of 104m² where 80m² would normally be required with a separate effluent disposal system, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the Litchfield Council stormwater drainage system shall be submitted to and approved by the Litchfield Council, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Litchfield Council, to the satisfaction of the consent authority.
4. Any developments on or adjacent to any easements on site in shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity and water to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 2, 3 and 4 for further information.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network

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Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (Eoi) form via email to remotedevelopment@powerwater.com.au
3. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
4. 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>.
5. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
6. Any new on-site wastewater management system is to be installed in accordance with the Code of Practice for Wastewater Management.
7. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au
8. 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.
9. Notwithstanding any approved plans, signs within Litchfield Council's municipal boundaries are subject to approval under Interim Development Control Order 31.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The Northern Territory Planning Scheme 2020 applies to the land and Dwelling-single with ancillary dwelling-independent with floor area in excess of 80m² and separate

effluent disposal system requires consent under Clause 1.8 as the application become Merit Assessable because it does not comply with the relevant development requirements set out in Part 5. As Merit Assessable under Clause 1.8(1)(b)(ii); Parts 3, 4 and 5 of the Scheme are relevant to this application, pursuant to Clause 1.10(3). The application has been considered against Clause 5.2.1 General Height Controls, Clause 5.2.4 Car Parking, Clause 5.2.6 Landscaping, Clause 5.4.1 Residential Density and Clause 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures, Clause 5.4.6 Private Open Space, Clause 5.4.13 Dwelling-Independent.

These clauses have been considered and it is found that the proposal complies with all the relevant requirements of the Planning Scheme except subclause 5 and 7 of Clause 5.4.13 Dwelling-Independent.

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

The proposal has been found not to be in accordance with subclause 5 and 7 of Clause 5.4.13 Dwelling-Independent. The variation of subclauses 5 and 7 sought because the proposal will result in dwelling-independent with a floor area of 104m² instead of 80m² and with a separate effluent disposal system.

It is considered that a variation to these clauses is appropriate in this instance because:

- (a) The proposed dwelling-independent originally had a floor area of 144m² when used as a primary single dwelling on the site. This footprint had been reduced to 104 m² by removing two bedrooms and a rumpus room to achieve closer compliance with minimum floor area requirements. The applicant advised that a further reduction of floor area is not possible without compromising the structure's integrity and compliance with building provisions. Once the proposed primary single dwelling is complete, the dwelling-independent will be sub-ordinate to the primary dwelling single on the site.

Administratively, Sub-clause 2 states: *The consent authority may consent to a dwelling-independent that is not in accordance with sub-clause 5 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on surrounding amenity.*

- (b) The proposal complies with the purpose of Clause 5.4.13 Dwelling-Independent in that the proposed dwelling-independent will increase housing choice while remaining ancillary to the dwelling-single on a site. In its current location, scale and form, the proposed dwelling-independent is considered to have no undue impact on the amenity of adjoining and nearby property, it does not detrimentally impact on the natural environment and does not increase impact on the local road network. Additionally, the dwelling-independent will also offer growing family an opportunity to reside on the same block of land for various ages and lifecycles. In this instance, the proposed dwelling-independent exceeding 80m² is supportable.

- (c) The proposal does not comply with sub-clause 7 of Clause 5.4.13 Dwelling-Independent because the proposed dwelling-independent is connected to an existing septic system approximately 60m from the proposed primary dwelling which is proposed to be connected to a separate septic system. A registered plumber provided supporting documentation confirming that the existing septic system for the dwelling-independent be retained and a new septic system be installed for the proposed primary dwelling.

Administratively, Sub-clause 3 states: *The consent authority must not consent to a dwelling-independent that is not in accordance with sub-clause 7 unless:*

- a) *documentary evidence that an existing wastewater management system does not comply or will not comply with the requirements of the Code of Practice for Wastewater Management as a result of the proposed dwelling-independent, is provided by:*
- i. *a registered certifying plumber and drainer or certifying engineer (hydraulic) (for locations within declared building control areas under the provisions of the Building Act 1993); or*
 - ii. *a licenced plumber and drainer or hydraulic consultant (for locations where the Building Act 1993 does not apply); and*
- b) *it can be demonstrated by a site and soil evaluation report completed by an appropriately qualified site-and-soil evaluator that a wastewater management system complying with the requirements of the Code of Practice for Wastewater Management can be installed for the proposed development.*
- (d) A registered plumber confirmed that reliance on the existing septic system for both dwellings would result in a non-compliance with the “NT Code of Practice for Wastewater Management”. In this instance, retention of existing septic system for the dwelling-independent and a new system for the new dwelling is considered appropriate and a variation to sub-clause 7 is granted.

Notwithstanding these variations to sub-clause 5 and 7 of Clause 5.4.13 Dwelling-Independent, the property will be serviced by a single connection to reticulated power and water supply. The proposed dwelling-single and dwelling-independent will utilise an existing single vehicle access from McGill Road and as such the proposal is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on surrounding amenity.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The subject land is Zone RL (Rural Living) and the purpose of the zone is to provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.

In this instance, access to reticulated water and power is available to the site. The proposal includes a septic system for sewerage and wastewater. The proposed dwelling-independent is already connected to a separate septic system and reticulated power and water services.

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

The proposed dwelling-single and dwelling-independent generally comply with the Northern Territory Planning Scheme 2020 or provide an acceptable response in their size, design and siting.

The proposed development is deemed compatible with existing developments in zone Rural Living. The development scale, location, design, and siting demonstrate that the proposal is consistent with zone outcome and purpose of the zone.

Therefore, the development is unlikely to have undue impact on the existing and future amenity of nearby properties or land.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2024/0381
SUBJECT SITE
APPLICANT

SUBDIVISION TO CREATE TWO LOTS

SECTION 4058 (95) MIDDLE ARM ROAD, WEDDELL, HUNDRED OF STRANGWAYS
EARL JAMES AND ASSOCIATES

Applicant:- Kevin Dodd (Earl James & Associates) attended and tabled an original survey plan showing lot sizes for the subject and other lots in the locality.

RESOLVED
10/25

That, the Development Consent Authority vary the requirements of Clause 6.5.1 (Subdivision in Zone FD) of the Northern Territory Planning Scheme 2020, and, pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Section 4058 (95) Middle Arm Road, Weddell, Hundred of Strangways for the purpose of a subdivision, to create two lots, subject to the following conditions:

GENERAL CONDITIONS

- The works carried out under this permit shall be in accordance with the drawing numbered 2024/0381/01, endorsed as forming part of this permit.
- Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Litchfield Council to the satisfaction of the consent authority.
- 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.
- Any new driveway/crossover is to meet Litchfield Councils requirements, to the satisfaction of the consent authority.
- Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, vehicular access, pedestrian/cycle corridors, and street scaping shall be to the technical requirements and approval of Litchfield Council, to the

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satisfaction of the consent authority. All approved works constructed are at the developer's expense.

6. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 8995 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
3. For the purposes of best practice land management and environmental protection it is recommended that a **Type 1** Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
4. A monetary contribution for each additional lot is required to be paid to Litchfield Council in accordance with its *Development Contributions Plan*.
5. Inspection fees and charges may apply in accordance with Litchfield Council's current fees and charges. Additional information can be found at www.litchfield.nt.gov.au.
6. 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.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

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The Northern Territory Planning Scheme 2020 applies to the land and subdivision requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(ii); therefore, the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and the Litchfield Subregional Land Use Plan 2016, which are relevant to this application), zone purpose and outcomes of Clause 4.27 (Zone FD – Future Development), and Clause 6.5.1 (Subdivision in Zone FD), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 6.5.1 (Subdivision in Zone FD).

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

The proposal has been found not to be in accordance with Clause 6.5.1 (Subdivision in Zone FD), because the minimum lot size for subdivisions in Zone FD (Future Development) is 50 hectares and as the combined area of both lots is 19.07 hectares, the proposed subdivision is not in accordance with sub-clause 3 and a variation to this clause is required.

The consent authority may consent to a subdivision that is not in accordance with sub-clauses 3 or 4, only if it is satisfied the subdivision is consistent with the purpose of this clause.

In accordance with sub-clause 4, a subdivision may create lots consistent with the intended future zoning if it complies with the relevant subdivision requirements of the intended future zone; is generally in accordance with an area plan or other relevant component of the strategic framework; and services are, or can be, made available to the land. The consent authority notes that the Report identifies the subject site as being within 'Planned Urban/ Peri-Urban' in Darwin Regional Land Use Plan 2015 and identified as 'Urban/ Peri-Urban' within Litchfield Subregional Land Use Plan 2016 (LSLUP 2016). There is no area plan prepared for the subject land and the Authority was not satisfied that the proposed additional lots less than 50ha would be inconsistent with Zone FD or prejudicial to the intended future use(s) of the land, noting the strategic planning documents identify the land for urban or peri-urban uses.

It is considered that a variation to this clause can be granted in this instance because:

- The proposal is generally in accordance with the intent of the Litchfield Subregional Land Use Plan 2016.
- There is no intended future zone outlined in the strategic framework for this site; however, the site area is likely to retain its rural living lifestyle.
- The subject lot, created over 40 years ago, was already well below 50ha minimum.
- Both lots will retain existing connection to bores, wastewater treatment systems and reticulated power.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates

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to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The only clearing of native vegetation will be undertaken for fire access trails that will be established along the new common boundary.

Department of Lands, Planning and Environment (Environment Division) confirmed both lots contain 1ha of land unconstrained by drainage, soil salinity or acid sulphate soils and recommended a Sediment Control Plan (ESCP) be prepared and implemented for purposes of best practice land management.

On this basis the land is considered as capable of supporting the subdivision as presented.

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose. The consent authority notes that the application was circulated to all relevant service authorities and that Litchfield Council supported the proposed subdivision, while other service authorities raised no objection to the proposal.
5. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated. The consent authority noted the survey plan, tabled by the applicant, which demonstrated that the proposed subdivision was in keeping with neighbouring lot sizes.

Given that the rural use and zoning of the land will remain, no impact on the existing or future amenity of the area is expected.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2024/0266

OUTBUILDING (SHED) ADDITION TO AN EXISTING DWELLING-SINGLE WITHIN LAND IN PROXIMITY TO AIRPORTS

APPLICANT

SECTION 5251 (95) THORAK ROAD, KNUCKEY LAGOON, HUNDRED OF BAGOT
Jackson Goold

Applicant: Jackson Goold is an apology. Ashley Phillips representing (MG Holding Co Pty Ltd - landowner) attended.

RESOLVED
11/25

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 5251 (95) Thorak Road, Knuckey Lagoon, Hundred of Bagot for the purpose of outbuilding (shed) addition to an existing dwelling-single within land in proximity to airports, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2024/0266/001 & 2024/0266/002, endorsed as forming part of this permit.
2. The owner shall collect stormwater and discharge it to the drainage network, to the technical requirements and satisfaction of Litchfield Council, at no cost to Litchfield Council.
3. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.

NOTES

1. This permit will expire if one of the following circumstances applies: the development is not started within two years of the date of this permit; or 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. The landowner shall engage a licenced electrician to install any applicable electrical installations for the proposed shed in accordance with PWC's current NP018 Service and Installation Rules 2024 and NP010-Meter Manual.
3. Reticulated sewer services are currently unavailable in the area. The developer must contact relevant authorities to discuss servicing requirements for the proposed development. The developer must ensure that:
 - a) Backflow prevention is installed at the water service in accordance with AS/NZS 3500.1 - Plumbing and Drainage - Water Services
 - b) Where applicable, the device is tested annually in accordance with AS/NZS 2845.3 field testing and maintenance of testable devices.

PWC have stated its database shows a device is installed and is overdue for testing. Visit <https://www.powerwater.com.au/developers/water-development/backflow-prevention> or contact BackflowPrevention.PWC@powerwater.com.au for all backflow prevention enquires.

4. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence NT or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
5. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au.
6. 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.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 (NTPS) applies to the land and the proposed outbuilding (shed) addition requires consent as it is in Zone R (Rural) and has become *Merit Assessable* under Clause 1.8(1)(b)(ii)(1) of the NTPS due to the LPA (Land in Proximity to Airports) overlay.

Therefore, the exercise of discretion by the consent authority that applies is Clause 1.10(3) of the NTPS. In considering an application for consent for a use or development that has become Merit Assessable under Clause 1.8(1)(b)(ii)(2), the consent authority must consider:

- a) the 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; and,
- c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6.

Therefore, the purposes and outcomes of Clause 3.5 (LPA - Land in Proximity to Airports), Clause 4.21 (Zone R - Rural), Clause 3.2 (CNV - Clearing of Native Vegetation), in addition to Clause 5.2.1. (General Height Control) and Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the NTPS.

2. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

It is considered that the land can support the proposed development. The site is largely flat so no significant earthworks are required to accommodate the development, and the location of the proposed shed will avoid the existing easement. The shed is ancillary to an existing dwelling-single at the site so does not present a new land use. Potential drainage impacts of the development on the land and on other land, can be managed by an appropriate condition relating to stormwater management.

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

The proposed development will benefit the amenity of the site by providing additional storage space, ancillary to the existing dwelling-single. The positioning of the proposed outbuilding (shed) meets the setbacks required by the NTPS and exceeds that required by the *Fire and Emergency Act 1996*. The existing easement at the site is not affected by the proposal and appropriate conditions on any development permit can ensure that surface water is managed to prevent negative impacts on neighbouring land. The proposal has also been assessed against the requirements of the LPA (Land in Proximity

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to Airports) overlay and it has been determined there will be no negative impacts on Darwin Airport.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 4
PA2024/0194

CLEARING OF NATIVE VEGETATION

SUBJECT SITE

SECTIONS 211, 212 & 224 (640, 550 & 470) ACACIA GAP ROAD, MANTON, HUNDRED OF COLTON

APPLICANT

SARAMAT TOU RUCHKAEW

Rachael Wright a community member of the Litchfield Division of the Development Consent Authority was an apology for the hearing of this item.

Applicant:- Saramat Tou Ruchkaew (landowner) and Danny Skewes attended.

Ms Ruchkaew tabled advice from Logan Reid of the Top End Pastoral Development Pty Ltd and a map showing the proposed buffer to the spring fed rainforest and associated drainage with mapping co-ordinates intended to confirm dimensions of proposed buffers.

RESOLVED
12/25

That, the Development Consent Authority vary the requirements of Overlay 3.2 (CNV (Clearing of native vegetation) of the Northern Territory Planning Scheme and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop sections 211, 212 and 224 (640, 550 & 470) Acacia Gap Road, Manton, Hundred of Colton for the purpose of clearing of native vegetation, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works, amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with *the plans submitted with the application* but modified to show:
 - Native vegetation buffer areas with a minimum width of 250m from the boundaries of the rainforest areas in Sections 224 and 212.
2. Prior to the endorsement of plans and prior to commencement of works, a stormwater management plan shall be provided to the requirements of the Litchfield Council.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. The clearing of native vegetation is to be undertaken only in the areas identified on the endorsed drawing as "Permitted Clearing". All remaining native vegetation is to be maintained to the satisfaction of the consent authority.

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5. The permit holder must ensure that the clearing operator has a copy of the permit, including the endorsed drawing, at all times during the clearing operation.
6. Before the vegetation removal starts, the boundaries of all vegetation stands to be removed and retained must be clearly marked on the ground or marked with tape or temporary fencing to the satisfaction of the consent authority.
7. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Litchfield Council drains or to any watercourse.
8. The loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network. Where tracked material on the road pavement becomes a potential safety issue, the developer will be obliged to sweep and clean material off the road.
9. Firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority on advice from the *Bushfires NT Division of the Northern Territory Fire and Emergency Services*.

NOTES

1. 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 <https://ntepa.nt.gov.au/publications-and-advice/environmental-management>.
The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by the Department of Lands, Planning and the Environment.
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.
2. All land in the Northern Territory is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection.

Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to weedinfo@nt.gov.au

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3. The permit holder is advised that it is an offence to disturb or destroy prescribed archaeological places without consent under the *Heritage Act 2011*. Should any heritage or archaeological material be discovered during the clearing operation, cease operation and please phone Heritage Branch of the Department of Lands, Planning and Environment.
4. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
5. A "Works Permit" may be required from Litchfield Council before commencement of any work within the road reserve, which would include creation of any driveway crossover connecting to Council's road network. Fees may apply.
6. A permit to burn is required from the Regional Fire Control Officer, NT Fire and Emergency Services, prior to the ignition of any felled vegetation on the property. Fire prevention measures are to be implemented in accordance with the requirements of the *Bushfires Management Act 2016*.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and the clearing of native vegetation requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(v), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and the Litchfield Subregional Land Use Plan 2016), Overlay 3.2 (Clearing of native vegetation), and the zone purpose and outcomes of Clause 4.21 Zone R (Rural), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Overlay 3.2 CNV (Clearing of native vegetation).

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

The proposal has been found to not be in accordance with Overlay 3.2 CNV (Clearing of native vegetation)

The consent authority noted that the proposed clearing did not include buffer areas to the property boundaries or to the Acacia Gap Road frontage. Administratively the consent authority may vary the requirements only if it is satisfied that it is consistent

with the purpose of the Overlay and is appropriate in the context of the site and the locality having regard to the following matters.

The purpose of the Overlay is to limit the clearing of native vegetation and ensure that the clearing:

- Does not impact on conservation values of land Zoned CN (Conservation) or
- Unreasonable contribute to environmental degradation of the locality.

In consideration of this consent authority notes that the land is not zoned CN. The land is identified within the Litchfield Environmental Management Areas for its drainage and riparian areas and rainforest. The clearing excludes the rainforest areas, however the authority has required that amended plans be provided that show a buffer area, with a width of 250m from the rainforest to the proposed clearing area be provided, as recommended by the Land Clearing Guidelines.

Regarding the clearing of areas identified as having drainage and riparian values the consent authority took into consideration that the purpose of Zone R (Rural), as applies to the subject land, is to accommodate agriculture, amongst other matters. The clearing is for the purpose of establishing such a use that is permitted in the zone. Significant portions of the land are not developable due to their environment values and are excluded from the clearing areas. The land to be cleared does not exhibit the same environmental values as the rainforest and associated waterways that occur over parts of the land. The land to be cleared has slopes mostly less than 2% and excludes those parts of the land where the slopes exceed 2% minimising the potential for erosion as would the planting of hay to replace the vegetation.

Administratively the consent authority may consent to a variation to requirements provided that it is consistent with the purpose of the requirements and is appropriate in the context of the site and the locality having regard to the following matters.

- The suitability of the site for the proposed use.
- The values associated with the environmental characteristics.
- The significance extent and likelihood of any potential environmental impact.
- The measures the application proposes will be implemented to mitigate any potential impacts.

The clearing plans propose to establish no boundary buffer areas between Section 224/212 and 212/211 and a 25m wide buffer area between Sections 211/1508. The Land Clearing Guidelines recommend a buffer area between property boundaries of 200m. In considering the lack of boundary buffer areas between sections 224/212 and 212/211 the consent authority took into consideration the size of the land, and the contiguous nature of the clearing and subsequent development. In relation to the 25m buffer area to the boundary buffer between sections 211/1508, the consent authority took into consideration the size of Section 1508 (3,359ha) and the undeveloped nature of the land.

The clearing plan proposed a varied buffer area to Acacia Gap Road, including no buffer area, where the Land Clearing Guidelines recommended a buffer area of 50m. The proposed buffer areas to the road are considered to be consistent with development of land in the locality which is characterised by rural development to the road frontage with no buffer areas.

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Further to the above authority took into consideration the advice from m DEPWS that the proposed clearing is unlikely to have a significant impact on the regional extent of vegetation communities and associated biodiversity values.

Accordingly the consent authority considers that the proposed clearing is suitable for the intended hay production, will not impact on identified environmental characteristics and that the proposed clearing will not result in the need for mitigation measures can be undertaken in manner that will mitigate any potential impacts.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The consent authority has determined that the subject land is capable of accommodating the clearing. The land to be cleared is generally not subject to slopes in excess of 2% and the subsequent development of the land for agriculture will not require any significant measures to mitigate any potential impacts.

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

The proposed development is broadly consistent with the pattern of development in the locality and that reasonably expected in the zone. The locality is characterised by rural development that extends the road frontages without the provision of native vegetation buffer areas. The lack of buffers areas to property boundaries will not significantly impact on either the character or amenity of the locality.

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

One public submission was received expressing concerns that the area was a valuable bioregion until it was cleared, that hay production is not a viable or sustainable way to revegetate degraded land and the broader impacts of climate change. In consideration of this the consent authority notes that the purpose of the application is to clear native vegetation to establish hay production in a manner that is consistent with the requirements of the NTPS 2020.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

24 February 2025