



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING NO. 297 – WEDNESDAY 19 MARCH 2025

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

MEMBERS PRESENT: Suzanne Philip (Chair), Adam Twomey and Rick Grant

APOLOGIES: Rachel Wright and Emma Sharp

LEAVE OF ABSENCE: None

OFFICERS PRESENT: Margaret Macintyre (Secretary), George Maly, Rhiannon Martin (Development Assessment Services) and Teri-Anne Stephenson (Lands and Planning, Katherine)

COUNCIL REPRESENTATIVE: Jaimie O'Connor

Meeting opened at 11.30 am and closed at 12.40 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

PA2025/0016

SUBJECT SITE

APPLICANT

VEHICLE SALES AND HIRE

SECTION 4090 (29) VEREKER STREET, HUMPTY DOO, HUNDRED OF STRANGWAYS

PK TRANSPORTATION PTY LTD

The applicant did not attend.

**RESOLVED
19/25**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 4090 (29) Vereker Street, Hundred of Strangways for the purpose of vehicle sales and hire, subject to the following conditions:

CONDITION 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 that the driveway and car parking area will be surfaced with compacted gravel, in accordance with clause 5.2.4.4(7)(b) of the NT Planning Scheme 2020.

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. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 1 for further information.

4. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Litchfield Council, to the satisfaction of the consent authority.
5. 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.
6. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Litchfield Council, to the satisfaction of the consent authority.
7. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the

public street or at the junction of the driveway and the public street, in accordance with the requirements of the Litchfield Council, to the satisfaction of the consent authority.

8. Before the use or occupation of the development starts, the areas set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c)
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.

Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

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) 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.
- 3) 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.
- 4) Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au.
- 5) There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the *WMPC 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 *WMPC Act*, including the General Environmental Duty under section 12 of the *WMPC Act*. There is also the requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the *WMPC Act*. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority (NT EPA) website. The *WMPC Act*, administered by the NT EPA, is separate to and not reduced or affected in any way by other legislation administered by other departments or authorities. The NT EPA may take enforcement action or issue statutory instruments should there be non-compliance with the *WMPC Act*.

- 6) The applicant is advised to engage a Northern Territory registered building certifier to ensure that the intended use of any existing buildings or structures is permitted by occupancy certification in accordance with the *Building Act 1993*.

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 vehicle sales and hire requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(i); therefore, the zone purpose and outcomes of Clause 4.12 (Zone SC – Service Commercial), and Clauses 5.2.1 (General Height Control), 5.2.4.1 (Car Parking Spaces), 5.2.4.4 (Layout of car parking areas), 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), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.2 (Commercial plot ratio), 5.5.3 (Expansion of existing development in Zones CB, C, C and TC), and 5.5.4 (Expansion of Existing Development in Zones CB, C, SC and TC), needs 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 5.2.4.4 (Layout of car parking areas).

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).

Clause 5.2.4.4 (Layout of car parking areas)

Subclause 5.2.4.4(7) requires the parking areas and internal driveways be sealed and well drained in urban area or dust suppressed in the rural areas to ensure that vehicle parking is appropriately designed, constructed and maintained for its intended purpose. The applicant proposed the surface of the parking area and the internal driveways be treated with a compacted gravel rather than bitumen or concrete as the proposal is for a low scale development and gravel treatment would be cost effective, visually consistent with the site and the locality generally and because this form of treatment would be more durable and environmentally functional.

The consent authority considered the applicant's request and the administrative provisions of this clause, which allow it to consent to a car parking area that is not in accordance with subclause 7, if it is satisfied that the design and construction is safe and functional with regard to the location of the development.

The consent authority, noting the design of the car parking area and internal driveways, determined that the use of compacted gravel on the driveways and parking spaces was suitable in relation to the current proposal because dust suppression was acceptable in this locality, the site is relatively small and design of the internal parking was adequately

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safe and functional with regard to the location of the development. The consent authority also noted that the Litchfield Council supported the proposal and raised no issues with the use of compacted gravel. A condition precedent requiring amended plans had been imposed on the permit to ensure the endorsed plans reflect the consent authority's decision and achieve compliance with the provisions of the NT Planning Scheme 2020.

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

The proposal is consistent with the zone purpose as a vehicle sales and hire use facilitates a large floor space for the display, storage and sale/hiring of vehicles in a location with convenient access to the broader population.

The proposal is consistent with the zone outcomes as the vehicle sales and hire use envisaged in Zone SC (Service Commercial), designed to provide convenient access to road transport networks, incorporates appropriate landscape design.

The proposed use is not expected to have unreasonable loss of amenity for surrounding premises, having regard to the mixed-use nature of the zone.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2024/0416
SUBJECT SITE
APPLICANT

OUTBUILDING (SHED) ANCILLARY TO DWELLING SINGLE WITH A REDUCED SETBACK TO THE SIDE BOUNDARY
LOT 9 (1435) COX PENINSULA ROAD, BERRY SPRINGS, HUNDRED OF CAVENAGH
PATRICK BERTS

Applicant: Patrick Berts, Daniel Maloney (landowner) and his father Bernie Moloney attended.

RESOLVED
20/25

That, the pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 9 (1435) Cox Peninsula Road, Berry Springs, Hundred of Cavenagh for the purpose of an outbuilding (shed) ancillary to dwelling-single with a reduced side boundary setback and request the applicant provide amended plans showing a closer compliance with provisions of the NT Planning Scheme, by either:

- siting the proposed structure a minimum of 7metres from the side boundary; or,
- siting the proposed structure a minimum of 6metres from the side boundary with 2metres being landscaped and 4metres for a compliant firebreak.

REASONS FOR THE DECISION

- 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 proposed outbuilding (shed) ancillary to a single dwelling with a reduced setback requires consent under Clause 1.8 (When development consent is required). It is identified as *Mert Assessable* under Clause 1.8(b)(ii)(2) therefore the purpose and outcomes for Zone R (Rural), 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 Planning Scheme except for Clause 5.4.3 (Building setbacks of residential buildings and ancillary structures) subclause 6 as the proposed setback of 4m does not comply with the required 10m setback.

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 purpose of the clause seeks to ensure that residential buildings and ancillary structures are located in a manner that is (a) compatible with the streetscape and surrounding development including residential buildings on the same site, (b) minimises adverse effects on building massing when viewed from adjoining and the street, (c) avoids overdue overlooking of adjoining properties and (d) facilitates breeze penetration through and between buildings.

In consideration of this, the consent authority notes that the proposal would be permitted if setback 10m from the site boundary. The consent authority did not consider financial reasons to be substantial justifications for a reduction in the required setback from 10m to 4m given the subject site is suitably sized to accommodate the structure without a setback reduction. The consent authority is not satisfied that a 4m setback would not adversely impact on the future amenity of the neighbouring land should it be developed in future, noting this land is also zoned for rural purposes.

In accordance with the administrative requirements of the clause, the consent authority may vary the requirements of the clause if it is satisfied the setback is consistent with the purpose of the clause and is appropriate to the site. The proposed setback is neither consistent with the purpose of the clause or appropriate to the site, particularly in consideration that the lot affected by the setback reduction may be developed in future.

In deferring the application, the consent authority noted the concerns raised by Litchfield Council that the proposed setback will only meet the minimum 4m firebreak requirement, and that the development has the potential to impact on the amenity of the neighbouring property.

**RESOLVED
21/25**

That, pursuant to section 86(1) of the *Planning Act 1999*, the Development Consent Authority delegates to the Chair or in the Chair's absence or inability to act any one of the members of the Division, the power under section 53 of the *Planning Act 1999*, to determine the application to develop Lot 9 (1435) Cox Peninsula Road, Berry Springs, Hundred of Cavenagh subject to the receipt of amended plans showing a better or total compliance with the NT Planning Scheme, and where, at a minimum, the amended plans show either:

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- A 7metre setback to the side boundary; or,
- A 6metre setback to the side boundary, with 2metres of landscaping and a 4metre firebreak.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Deferral

ITEM 3
PA2024/0145
SUBJECT SITE
APPLICANT

DWELLING-SINGLE AND ANCILLARY OUTBUILDING (SHED), WITHIN LAND IN PROXIMITY TO AIRPORTS
SECTION 3372 (70) LAGOON ROAD, KNUCKEY LAGOON, HUNDRED OF BAGOT
DEVELOPING THE NORTH PTY LTD

The applicant did not attend.

Landowners Beata Small and Adam Small attended.

Submitters: Herman Nyhuis and Lyn Nyhuis sent their apology as they were unable to attend.

Submitters: Paul Nyhuis and Elizabeth Fisher attended.

RESOLVED
22/25

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 3372 (70) Lagoon Road, Knuckey Lagoon, Hundred of Bagot, for the purpose of a dwelling-single and an ancillary outbuilding (shed) addition, within land in proximity to airports, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works, revised 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 show dimensions and must be generally in accordance with the plans submitted with the application but modified to:
 - Remove any reference to proposed septic facilities / absorption trench; and
 - Add a note stating the proposed outbuilding (shed) is a non-habitable structure and is to be used for storage purposed only.

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. 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.
4. Any developments on or adjacent to any easements on site shall be carried out to the requirements and satisfaction of the relevant Service Authority.

NOTES

1. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au
2. 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.
3. Notwithstanding any approved plans, signs within Litchfield Council's municipal boundaries are subject to approval under Interim Development Control Order 29.
4. The applicant is advised that the provision of lighting at the site is required to be consistent with the Civil Aviation Safety Authority 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 surfaces suitably modified.
5. Department of Defence NT recommends the dwelling comply with the indoor design sound levels for determination of aircraft noise reduction as outlined in AS2021-2015 Acoustics – Aircraft noise instruction – Building siting and construction.
6. This property is currently provided with limited capacity of power supply from overhead electricity reticulation on Lagoon Road. The landowner shall engage a licensed electrician to submit a revised overall maximum power demand calculation for both the existing residence and new shed on Section 3372 to the Power & Water Corporation for assessment on applicable power supply capacity upgrade requirements in accordance with the current Australian Energy Regulator (AER) process. The engaged electrician shall carry out customer's internal electricity reticulation upgrade works for the proposed shed in accordance with Power & Water Corporations current NP003-Installation Rules, NP007-Service Rules and NP010-Meter Manual.
7. Reticulated sewer services are currently unavailable in the area. The developer must contact relevant authorities to discuss servicing requirements for the proposed development.
8. Full lot fire coverage cannot be achieved from existing hydrants. Internal firefighting arrangements must be made to the satisfaction of NT Fire and Rescue Service. Power & Water Corporation recommends that the developers' hydraulic consultant confirm internal firefighting requirements with Power & Water Corporation prior to the development, so that flow capability can be adequately assessed.

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 a dwelling-single and ancillary outbuilding (shed), requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(ii)(1) due to the requirements of Clause 3.5 (Overlay LPA – Land in Proximity to Airports).

Therefore, the zone purpose and outcomes of Clause 4.21 (Zone R – Rural), Clause 5.2.1 (General Height Control), Clause 5.2.4.1 (Car Parking Spaces), Clause 5.2.6 (Landscaping), Clause 5.4.1 (Residential Density), Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 5.4.6.1 (Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group) and Clause 5.8.7 (Demountable Structures), 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.

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.

The site does not have any social, environmental or heritage considerations which would prevent development. The land can support this proposed development, which is compatible with the rural zoning. No adverse impacts on Darwin Airport are anticipated subject to an appropriate note on any development permit. Subject to a condition precedent requiring a revised site plan removing reference to septic facilities / absorption trenches, the development does not have a detrimental effect on any physical characteristics of the site. Additionally, the Rangelands Division of the Department of Lands, Planning and Environment did not identify or raise any issues of concern in relation to land capability.

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 shed is ancillary to the existing dwelling-single and both are compatible with the rural zoning of the site the surrounding area. The development provides amenity benefits to the current occupants of the site by providing additional storage space. The landowners, who are the current occupants of the existing dwelling-single, have confirmed that additional soundproofing had been installed in the dwelling and that there are no noise issues resulting from the nearby airport. The Department of Defence were invited to comment on the proposal and did not raise any issues or concerns with the proposed dwelling. The consent authority did not therefore consider it appropriate to require the implementation of any noise attenuation measures in the dwelling-single.

Amenity concerns have been raised in the public submissions made by neighbours; however, these largely relate to the commercial and civil operations occurring at the site, separate from this application. No adverse amenity impacts are therefore anticipated as a result of granting consent for the existing dwelling-single and ancillary shed.

4. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the Consent Authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

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A total of four submissions made under section 49 were received during the exhibition and re-exhibition periods. The content of these submissions has been considered and largely relates to the amenity impacts of the commercial and civil activities being undertaken at the site. However, these are not the subject of this application. As part of ongoing enforcement investigations, the landowner has been requested to submit a development application for a home-based business. This will allow a complete assessment to be made regarding the amenity impacts and scale of the civil / commercial operations being undertaken at the site. Appropriate action can be taken by the Consent Authority at that time. The consent authority emphasised that the current application is limited in scope and any development permit issued in respect of the application would authorise only the use of the premises as a dwelling single and an outbuilding which is ancillary to that dwelling.

Comments were also made in the submissions relating to the use of the proposed ancillary shed; however, the applicant has demonstrated in the application that the shed will be used for personal storage purposes. This will be ensured by requiring submission of revised plans, including a note that the new shed will be non-habitable and used for storage purposes only. This is acceptable with regard to the rural zoning of the land and complies with the requirements of the LPA (Land in Proximity to Airports) Overlay. No adverse amenity impacts are anticipated as a result of the existing dwelling-single.

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

26 March 2025