

DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

**MEETING NO. 313
WEDNESDAY 16 SEPTEMBER 2026**

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

MEMBERS PRESENT: Suzanne Philip (Chair), Rick Grant, Emma Sharp and Rachael Wright

APOLOGIES: Mitch Virgin

LEAVE OF ABSENCE: None

OFFICERS PRESENT: George Maly, Jack Richardson, Drashti Chovatiya and Wayne Vowles
(Development Assessment Services)

COUNCIL REPRESENTATIVE: Rob Taylor

Meeting opened at 10.50 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 **ADDITION OF OUTBUILDINGS (CARPORT, SHED) AND 2 X DEMOUNTABLE STRUCTURES (SHIPPING CONTAINERS) WITH A REDUCED SIDE SETBACK TO A SINGLE DWELLING**

PA2026/0266 **SECTION 1957 (5) BENHAM COURT, HUMPTY DOO, HUNDRED OF STRANGWAYS**

APPLICANT **SIMON BRUHN AND TRUDI BRUHN**

Applicant: Simon Bruhn attended.

Submitters in attendance: none attended.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Section 01957 (5 Benham Court, Humpty Doo), Hundred of Strangways for the purpose of addition of outbuilding (Carport, Shed) with a reduced side setback to a single dwelling, subject to the following conditions:

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CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works, amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority;
When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with *the plans submitted with the application* but modified to show:
 - (a) Installation of a gutter along the western edge of the carport/shed to contain water runoff on the property
 - (b) Relocation of the two shipping containers to be at least 10 metres from the western side boundary, whilst remaining compliant with all setback requirements of Clause 5.4.3 of the NTPS 2020.
2. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into Litchfield Council's stormwater drainage system shall be submitted to and approved by 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. Any developments on or adjacent to any easements on site in favour of Council shall be carried out to the requirements and satisfaction of Litchfield Council.

5. Within a period of 3 months from the date of this permit the two shipping containers must be relocated as per the relevant plans approved by the consent authority to the satisfaction of the consent authority.
6. 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.
7. The use and/or development as shown on the endorsed plans must not be altered without the further consent of the consent authority.

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. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at www.litchfield.nt.gov.au.
3. 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 RECOMMENDATION

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 proposed addition of outbuildings (Carport, Shed) and 2 x demountable structures (shipping containers) with a reduced side setback to a single dwelling requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 4.7 (Rural Living); therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan and Litchfield Subregional Land Use Plan, zone purpose and outcomes of Clause 4.7 (Rural Living), and Clause 5.2.1 (General Height Control), 5.2.4 (Car Parking), 5.2.6 (Landscaping), 5.4.1 (Residential Density), 5.4.3 (Buildings Setbacks for Residential Buildings and Ancillary Structures) and 5.4.6 (Private Open Space), 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

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Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

2. The Authority notes that this application has arisen as a result of enforcement action and seeks to regularise planning approval for existing structures. 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 Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), because the proposal will result in *a setback to the side boundary of 1.2 metres, which encroaches 8.8 metres into the 10-metre setback requirement.*

It is considered that a variation to this clause can be supported in respect of the open carport structure in this instance because:

- (a) The proposal is consistent with the purpose of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) in that outbuildings are common in the area and within the Rural Living zone, and will have minimal adverse effects through building massing when viewed from external to the site. Administratively, consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property. This proposal results in a setback to the side boundary of 1.2 metres, however through conditions, amenity impacts on neighbouring properties can be minimised.
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4) do not apply to this application because the application became Merit Assessable under Clause 1.8(1)(b)(ii)(2), and under Clause 1.10(2), the consent authority only must consider the requirements in Part 5 that are not complied with for such applications.
 - (c) However, the Authority determines that the two shipping containers, being solid in nature and noting the comments from the Northern Territory Fire and Emergency Services, are not appropriately located and must be removed or relocated to comply with the requirements of Clause 5.4.3.
3. Pursuant to section 51(1)(e) of the Planning Act 1999, in considering a development application, the consent authority must take into account 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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The application was placed on public exhibition for a period of one week between 14 August 2026 through to 21 August 2026. 1 public submission and one submission from Litchfield Council were received under section 49 of the *Planning Act 1999* all in opposition to the application.

1. Craig Donoghue (public submitter) did not attend the meeting.
2. Litchfield Council made a formal submission under section 46(3) of the *Planning Act*, outlining a number of concerns and objections regarding the proposal. In particular, Council did not support the proposed carport structure due to stormwater implications for the neighbouring property, in addition to required firebreaks not being complied with, presenting a fire hazard.

The Authority noted the submitter and Litchfield Council concerns, but resolved to retained the carport structure in its current location due to;

- Structure being open sided
- Carports metal construction is located 600mm from the boundary and will be fitted with a gutter to direct stormwater away from the boundary
- NTFRS did not raise any objection to the carport's location

The Authority did resolve to require the applicant relocate the two shipping containers to comply with the NTPS 2020.

4. 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 land has been identified and developed for rural living purposes and is capable of supporting the development. The proposed outbuildings are in keeping with the zone purpose and zone outcomes, noting only variations to Part 5 of the NT Planning Scheme 2020 have made it 'merit assessable'. The site is located within an established neighbourhood with existing services and infrastructure. There are no significant forecasts on the land. Additionally, the Land Resource Division – Department of Lands, Planning and Environment did not identify or raise any issues of concern in relation to land capability.

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.

Outbuildings are a common development on rural living properties and despite their size, the proposed building's impact on the existing and future amenity of the area can be minimised, through conditions to be included in a development permit.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2026/0257 DWELLING GROUP (20 X 3 BEDROOM) IN 7 SINGLE STOREY BUILDINGS

SECTION 6486 (23) GRICE CRESCENT, COOLALINGA, HUNDRED OF BAGOT

APPLICANT ONE PLANNING CONSULT

Applicant: Israel-Tshepo Kgosiemang, Director One Planning Consult attended

Submitters in attendance: Gerry Wood attended.

RESOLVED
53/26

That the Development Consent Authority resolved, pursuant to section 46(4)(b) of the Planning Act 1999, to defer consideration of the application to develop Lot 6486 (23) Grice Crescent, Coolalinga, Hundred of Bagot, for the purpose of Dwelling-group (20 x 3 bedroom) in 7 single storey buildings, to require the applicant provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- Amended Plans demonstrating the provision of private open space located outside of the stormwater drainage easement with dimensions compliant with Clause 5.4.6 (Private Open Space) of the NT Planning Scheme 2020;
- A development which complies with Clause 5.4.1 (Residential Density) and Clause 5.2.6.1 (Landscaping in Zones other than Zone CB) of the NT Planning Scheme 2020.

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-group (20 x 3 bedroom) in seven single storey buildings requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 4.3 Zone LMR – Low-Medium Density Residential; therefore, zone purpose and outcomes of Clause 4.3 Zone LMR – Low-Medium Density Residential, and Clauses 5.2.1 General Height Control, 5.2.4 (Car Parking), 5.2.6 (Landscaping), 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), 5.4.6 (Private Open Space), 5.4.8 (Residential Building Design) and 5.4.17 (Building Articulation), need to be considered.

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As the application is Merit Assessable the exercise of discretion by the consent authority that applies is Clause 1.10(3) (Exercise of Discretion by the Consent Authority) of the NTPS2020.

In considering an application for consent for a use or development identified as Merit Assessable the consent authority must take into account all of the following:

- ii the relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;*
- iii any Overlays and associated requirements in Part 3 that apply to the land; and*
- iv the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6*

An assessment of the relevant parts of NTPS2020 is as follows:

Part 3 – Overlays

The site is not affected by any overlays.

Part 4 – Zoning

The site is located in Zone LMR – Low Density Residential pursuant to clause 4.3 of Part 4 of the NTPS 2020.

The purpose of Zone LMR is to *'provide a range of low-rise housing options that contribute to the streetscape and residential amenity in locations supported by community services and facilities, and where full reticulated services are available'*.

The proposed development supports the purpose and key zone outcomes of Zone LMR. The development/use of dwelling-group is an expected use within Zone LMR (Low-Medium Density residential) which supports a range of low-rise housing options that contribute to the streetscape and residential amenity in the locality.

Clause 5.2.6.1 Landscaping in Zones other than Zone CB

The Statement of Effect advises that 34.61% of the site is proposed to be landscaped. However, private open space of Units 1-9 is located within a registered drainage easement. The service authority for the area (Litchfield Council) has objected to the proposed landscaping and fencing within the easement area. Consequently, the extent of landscaping proposed cannot be achieved as shown for unit 1-9, resulting in non-compliance with Clause 5.2.6.1.

Clause 5.4.1 Residential Density

The proposal does not comply with this clause as 20 dwellings are proposed on a 5830m² site where only 19 would normally be allowed.

The subject site has an area of 5,830m², which permits a maximum yield of 19.43 dwellings. The proposal seeks approval for 20 dwellings, representing a minor variation of approximately 2.93% above the prescribed density.

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2. Pursuant to section 51(1)(m) of the Planning Act 1999, the Development Consent Authority must, in considering a development application, take into account the public utilities or infrastructure provided in the area in which the land is situated, services to be connected to the land and the requirement, if any, for those facilities or infrastructure to be provided by the developer.

The consent authority notes the local government council does not support proposed private open space being placed wholly within their drainage easement due to concerns over access arrangements to the easement for repairs and servicing. Power and Water (Water) noted that the site servicing agreement was for 19 dwellings instead of 20 whilst Medical Entomology section of the Department of Health raised concerns over the proximity of the site to the nearby mosquito breeding areas suggesting the development of the site be delayed until the drainage in the locality is reconciled and biting insect issues appropriately addressed.

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

The application was placed on public exhibition for a period of two weeks between 31 July 2026 through to 14 August 2026. 2 public submissions and one submission from Litchfield Council were received under section 49 of the *Planning Act 1999* all in opposition to the application.

3. Christine Simpson (public submitter) did not attend the meeting.
4. Gerry Wood attended the meeting and spoke to his submission and noted that:
 - Insufficient notification period, with only 48 hours provided to review the application, which he considered inadequate for meaningful public assessment.
 - Questioned whether the Planning Act adequately addresses social justice considerations and referred to the Act's objective of protecting quality of life.
 - Expressed concern that the proposed dwellings may provide a poor living environment, describing the development as being designed more like a "storage facility" than quality housing.
 - Noted that subdivision had not been clearly identified in the application documentation and was only mentioned during the hearing.
 - Raised concerns about the lack of open space and recreational opportunities.
 - Relationship to the adjacent lagoon, wetlands and rail trail, noting that the land had previously been filled.
 - Criticised the proposal's sustainability outcomes, including:
 - No solar panels proposed.
 - Limited landscaping and tree planting.
 - Poor landscaping design overall.
 - Lack of shade trees within driveway and parking areas.

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- Questioned the effectiveness of the proposed breezeways through the carport areas.
 - Concerns regarding dwelling design, particularly the solid side walls with limited windows, which may reduce amenity and natural ventilation.
 - Referred to comments from the Department of Health (Medical Entomology) regarding the nearby wetlands and mosquito management.
 - Wetlands should be retained in their natural state, rather than being modified to accommodate the development.
 - Greater setbacks from the wetland area should be required to protect environmental values and wildlife habitat.
 - The absence of public parkland in the locality and argued that larger private open space areas and backyards should therefore be provided.
 - Considered the development to be overly dense, suggesting that a significantly reduced number of dwellings would be more appropriate.
 - Potential amenity impacts from service vehicles, including:
 - A sewage truck regularly operating in the area early each morning.
 - Rubbish collection and waste management issues.
 - Proposed landscaping outcome as inadequate and not reflective of the site's setting.
 - The development fails to respond to or reflect the character of the surrounding rural area.
 - How the proposed stormwater management system would function, seeking further explanation of the stormwater design.
5. Litchfield Council made a formal submission under section 46(3) of the *Planning Act*, outlining a number of concerns and objections regarding the proposal. In particular, Council sought further information regarding the proposed operation and management of the development to better understand its potential impacts on surrounding essential infrastructure, particularly the drainage easement.

Council also raised concerns regarding the treatment and ongoing maintenance of the drainage easement, noting that:

- The easement should remain grassed and free from structures to ensure ongoing access for maintenance purposes.
- Any fencing within the easement area should be limited to pool-fencing rather than solid fencing.
- The installation of solid fencing may result in future maintenance difficulties and require removal and reinstatement to facilitate repair works within the easement.
- The drainage easement should ideally not form part of the private open space areas associated with individual dwellings.
- A representative of Litchfield Council attended the hearing and reiterated Council's submission, confirming its concerns regarding the management of the drainage easement and the potential implications of the proposed development on surrounding infrastructure.

The Authority noted the matters raised by the submitters, in considering the relevant NTPS requirements, Clause 1.6 NTPS2020 provides that:

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When consenting to the use or development of land, the consent authority may impose a condition requiring a higher standard of development than is set out in a requirement of Parts 3, 5 or 6 if it considers it necessary to the achievement of the Strategic Framework, the purpose of the overlay or the zone, or it considers it is otherwise necessary to do so.

Pursuant to section 46(4)(b) of the Planning Act 1999 the consent authority may also defer consideration of a development application and require the applicant to provide further information it considers necessary for the proper determination of the application.

The application seeks approval for a Dwelling-group (20 x 3 bedroom) in 7 single storey buildings. The site is partly located on the edge of a lagoon which had been raised as a potential source of mosquito breeding by the Medical Entomology Branch of Department of Health and where Power and Water Utility advises of a limited servicing capacity in this locality (site was earmarked to service 19 dwellings where 20 are proposed). The use of private open space for Units 1-9 is constrained as a result of Council's legitimate requirement to protect public stormwater infrastructure, and requirement for a strict compliance with this clause would create a conflict between the landscaping provisions of the NT Planning Scheme and Council's infrastructure management requirements.

As no communal open space is provided on site and no public open space is located nearby, a request for the provision of private open space for Units 1 to 9 outside of the easement will address this and other conflicts with relevant clauses of the NTPS 2020.

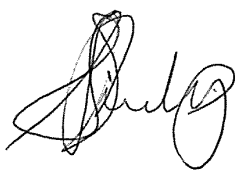
FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Deferral

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



Suzanne Philip
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SUZANNE PHILIP
Chair

22 September 2026