



## **DEVELOPMENT CONSENT AUTHORITY**

### **LITCHFIELD DIVISION**

### **MINUTES**

**MEETING NO. 295 – FRIDAY 13 DECEMBER 2024**

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

**MEMBERS PRESENT:** Suzanne Philip (Chair), Marion Guppy and Mark Blackburn, Emma Sharp and Rachael Wright

**APOLOGIES:** Rick Grant and Adam Twomey

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Steven Kubasiewicz, George Maly Rhiannon Martin and Ben Wollinski (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Jaimie O'Connor and Rob Taylor

**Meeting opened at 10.45 am and closed at 12 noon**

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  
PA2024/0251

**SUBDIVISION TO CREATE FOUR LOTS**

**SECTION 6121 (70) BROOKING CIRCUIT, & SECTION 6235 (24)  
WOODWARD ROAD, VIRGINIA, HUNDRED OF STRANGWAYS**

APPLICANT

Cunnington Rosse Town Planning and Consulting

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

RESOLVED  
71/24

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Sections 6121 & 6235 (70) Brooking Circuit & (24) Woodward Road, Virginia, Hundred of Strangways for the purpose of subdivision to create four lots, 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 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. The crossover and driveways shall meet Litchfield Council's requirements and be in accordance with the NT Subdivision and Development Guidelines and standard drawings.
4. 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.
5. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, vehicular access, pedestrian/cycle corridors, and streetscaping shall be to the technical requirements and approval of Litchfield Council, with all approved works constructed at the developer's expense. **Note:** Design drawings shall be approved by Litchfield Council prior to construction of the works.

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6. All existing or proposed easements or reserves required for the purposes of stormwater drainage, roads, access or for any other purpose, shall be made available free of cost to, and in favour of, Litchfield Council and/or neighbouring property owners.
7. Before the completion of the subdivision, the applicant must, in accordance with Part 6 of the *Planning Act 1999*, pay a monetary contribution to the Litchfield Council for the upgrade of local infrastructure, in accordance with its Development Contribution Plan.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity, reticulated water and telecommunications to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
9. Before the issue of titles, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority in accordance with the requirements of the *Bushfires Management Act 2016*.

### NOTES

1. This permit will expire if one of the following circumstances applies: the development *and use is/are* 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. For the purposes of best practice land management and environmental protection it is recommended that an Erosion and Sediment Control Plan (ESCP) be developed. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. Resources to assist with the preparation of an ESCP are available on the IECA website [www.austieca.com.au](http://www.austieca.com.au) and Land Management Factsheets at <https://nt.gov.au/environment/soil-landvegetation>. For further advice, contact the Development Coordination Branch: (08) 8999 4446.
3. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at [www.litchfield.nt.gov.au](http://www.litchfield.nt.gov.au).
4. A Works Permit is required from Litchfield Council before commencement of any work within the road reserve, which would include creation of any driveway crossover connecting to Litchfield Council's road network.
5. Notwithstanding any approved plans, signs within Litchfield Council's municipal boundaries are subject to approval under Interim Development Control Order 31.

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6. 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](mailto:weedinfo@nt.gov.au)

### 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 subdivision requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(1)(c)(iii) therefore the Holtze to Elizabeth River Subregional Land Use Plan, the purposes and outcomes of Zone RR (Rural Residential) and Zone CN (Conservation) and Clause 6.3.1. (Subdivision in Zone RR) and Clause 6.3.3. (Site Characteristics for Subdivision for Lots of 1ha or Greater in Zone RR, RL, R and H, and Unzoned Land), need to be considered.

The consent authority noted that the DAS Report assessed the proposed subdivision against the relevant requirements and concluded that it fully complies with 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.

A Land Suitability Assessment and Site and Soil Evaluation have been submitted as part of the application. These documents and the Department of Environment, Parks, and Water Security (DEPWS) response to the application confirm that each new lot will comprise 1ha or greater of unconstrained land. DEPWS have requested a condition relating to erosion / sediment control to ensure that the erosion risk can be appropriately managed, and this is included in the Development Permit.

The consent authority considered that the land is suitable for the proposed subdivision, considering the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

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- 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.

Power & Water Corporation (P&WC) – Power Services do not support the proposed 195m axe-handle access to Lot C, due to the higher costs of installing necessary electrical reticulation to meet an acceptable voltage drop for appliances to properly function.

Power Services require that a signed written guarantee letter is provided, stating that *"All potential land buyers of the new axe-handled Lot C (actual new lot number to be stated) shall be well informed in the land sales contract that the customer's own internal electrical installation to ensure that the voltage drop would not exceed the acceptable limit is significantly expensive (several tens of thousands of dollars) to extend the power point of service from the front boundary to new dwelling location."*

The subdivision layout as currently proposed has been prepared to reach agreement with and address Litchfield Council concerns relating to impacts on the Brooking Circuit / Beasley Road junction.

The application of a Caution Notice to the new Lot C has been considered, to address P&WC concerns relating to power servicing. However, Caution Notices can only be applied where there is a hazardous physical characteristic, such as presence of landfill sites, which may adversely affect the use or occupation of the land. As such, the use of a Caution Notice is not appropriate in this instance, as the land to which the subdivision relates has been confirmed as unconstrained by DEPWS, subject to an erosion / sediment control condition. No hazards have been identified.

To confirm, the use of axe-handle access is discouraged in Zones RL, R and Unzoned Land by Clause 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land) of the NTPS. However, there is no NTPS requirement which prohibits or discourages this type of access in Zone RR (Rural Residential) or CN (Conservation), where the subject site is located.

The proposed subdivision is compliant with the NTPS, and the proposal is supported on this basis. The land is unconstrained and capable of supporting the subdivision. The access to the new lots has been prepared to reach agreement with, and has been confirmed as acceptable by, Litchfield Council. Reticulated water is available and effluent disposal can be accommodated on each lot. Power servicing can be provided to each lot, albeit with extra cost to service Lot C. Each lot will have access to reticulated water.

The consent authority noted the comments of the Water Resources Division of the Department of Lands, Planning and Environment that the ground water resource is considered as over allocated, and that section 14 of the *Water Act 1992* provides a statutory right of access to ground water for each of the lots. In consideration of this the consent authority noted that the land has not been identified as a restricted water access area. Each

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lot is to be connected to a reticulated water supply as required by Clause 6.3.1 (Subdivision in Zone RR).

Considering the above the consent authority determined that the proposed subdivision can be appropriately served by public utilities or infrastructure provided in the area in which the land is situated.

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.

No adverse amenity impacts are expected as the proposed subdivision is compatible with the zoning of the land and the surrounding uses. The use of conditions will mitigate potential amenity impacts resulting from erosion and stormwater.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Consent and Development Permit

**ITEM 2**  
**PA2024/0289**

**OUTBUILDING (SHED) ADDITION TO AN EXISTING DWELLING-SINGLE WITH A REDUCED BUILDING SETBACK TO THE REAR BOUNDARY SECTION 5049 (10) SCHOLES ROAD, HUMPTY DOO, HUNDRED OF STRANGWAYS**

**APPLICANT**

Tick of Approval Pty Ltd

Applicant: Scott Reilly (Tick of Approval Pty Ltd) attended.

The submitter sent their apology.

**RESOLVED**  
**72/24**

That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building setbacks for 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 5049 (10) Scholes Road, Hundred of Strangways for the purpose of outbuilding (shed/carport) addition to an existing dwelling-single with a reduced building setback to the rear boundary, subject to the following conditions:

### **CONDITION PRECEDENT**

1. Prior to 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 Litchfield Council, to the satisfaction of the consent authority.
2. Amended plans providing one metre of landscaping between the shed and the boundary or architectural embellishments to the shed to the satisfaction of the consent authority.

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### 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 owner of the land must enter into agreements with the relevant authorities for the provision of 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.

5. 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.
6. 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.
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, in accordance with the requirements of the Litchfield Council, to the satisfaction of the consent authority.

### 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 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.
3. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at [www.litchfield.nt.gov.au](http://www.litchfield.nt.gov.au).
4. 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.

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 outbuilding (shed/carport) addition to an existing dwelling-single with a reduced building setback to the rear boundary requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(ii); therefore, only Part 5, Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), needs to be considered.

This clause has been considered and it is found that the proposal does not comply with the required boundary setback of 10m. The proposed setback is only 5m from the rear property boundary.

Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), sub-clause 2, of the Northern Territory Planning Scheme 2020, 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 the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements.

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.

The land is zoned RR and lots with a size less than 1ha (10,000m<sup>2</sup>) require a setback of 5m to rear or side boundaries. Outbuildings, would be permitted with a setback of 5m, demonstrating that the purpose of the Clause is satisfied.

The lot size of 10,000m<sup>2</sup> only exceeds by one square meter the application of a 5m setback, that would otherwise be permitted by the Clause.

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.

In consideration of the Clause the consent authority has determined that the development is consistent with the purpose of the Clause and is appropriate to the site, provided that landscaping or architectural embellishments are made to the proposed development that does not compromise the requirement to provide appropriate firebreaks.



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2. Pursuant to section 51(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.

One submission was received during the exhibition period under Section 49 of the *Planning Act 1999*. Concerns were raised in regard to the use, size, visual amenity and stormwater drainage.

In consideration of the concerns raised by the submitter the consent authority noted the following.

- The use of outbuildings for purposes ancillary to a dwelling-single on the land is consistent with the purpose of the zone.
- The provision of landscaping and/or architectural embellishments to the outbuilding minimise the potential for adverse impacts when viewed from adjoining land.
- In consideration of the comments of the submitter and the Council, conditions have been placed on the permit requiring the applicants to demonstrate that stormwater is appropriately managed.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Determination

**ITEM 3**  
**PA2024/0266**

**OUTBUILDING (SHED) ADDITION TO AN EXISTING DWELLING-SINGLE WITH A REDUCED BUILDING SETBACK TO THE SIDE BOUNDARY SECTION 5251 (95) THORAK ROAD, KNUCKEY LAGOON, HUNDRED OF BAGOT**

**APPLICANT**

Jackson Goold

Rachael Wright and Emma Sharp Community are both Members of the Litchfield Division of the Development Consent Authority and Councillors elected to the Litchfield Council. Litchfield Council is a submitter to this application under Section 49 of the *Planning Act 1999*.

The Chair noted that section 98A of the *Planning Act 1999* - Independence of Community Members – contemplates that Community Members, while acting independently, may take account of the opinion of a local government council in relation to a development application.

No parties present raised any concerns with Rachael Wright and Emma Sharp considering the application.

Pursuant to section 97 of the *Planning Act 1999*, the Chair determined that Rachael Wright and Emma Sharp's interest or relationship was not significant or relevant, and both were permitted to form part of the quorum and participate in determination of this item.

Applicant: Jackson Goold is an apology. Ashley Phillips representing (MG

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Holding Co Pty Ltd - landowner) attended.

Submitter: Litchfield Council represented by Jaimie O'Connor and Rob Taylor attended.

### RESOLVED 73/24

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of 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 with a reduced building setback to the side boundary to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- a professionally dimensioned and to scale site plan, showing site constraints including easements, trees, and existing buildings, and the positioning of the roller doors to justify the location of the new building;
- any existing helicopter landing site on the Lot to be detailed and noted on the plans;
- noting the need for firebreaks, further justification as to why the consent authority should exercise its discretion to approve any reduction to the required setbacks for the proposed building, and / or;
- demonstrate substantial or total compliance with the NTPS setback requirements, by changing the building location or reducing its footprint.

### REASONS FOR THE DECISION

1. The proposal seeks consent for a 20x30m (600sqm) outbuilding (shed) with a height of approximately 7m ancillary to the existing dwelling-single with a reduced setback of two metres from the side boundary. The subject land is zoned R (Rural) and is 69,300 square metres in area. The proposal is 'Merit Assessable' under Clause 1.8(1)(b)(ii)(2) of the Northern Territory Planning Scheme 2020 (NTPS) and is non-compliant with Part 5 of the planning scheme.
2. The new shed is proposed to be setback 2 metres from side boundary with 115 Thorak Road, instead of the required 10m. The consent authority is required to consider the requirements of Clause 5.4.3 (Building setbacks for residential buildings and ancillary structures) and whether the proposed setback of 2 meters is consistent with the purpose of the clause.

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 proposed development would be permitted if setback 10 meters from the subject boundary. The required setback acknowledges the nature of the rural zoning. The proposed setback is substantially smaller than that required

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for the zoning and the application offers no justification for such a radical departure from the statutory minimum. It does not satisfy the purpose of the Clause. The subject site is suitably sized to accommodate the required setbacks. Further to this, the proposed setback does not accommodate the need to provide firebreaks to property boundaries.

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 development can be accommodated on site in manner consistent with the setback requirements.

The application details fail to provide suitable justification for a variation to the setback requirements.

In deferring the application the consent authority noted the concerns raised by the Litchfield Council that the proposed setback did not allow for appropriate firebreaks to be established and that the development has the potential to impact on the visual amenity of adjoining properties and the management of stormwater.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Deferral

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

**SUZANNE PHILIP**  
Chair

19 December 2024