



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES - ITEM 4 ONLY

MEETING NO. 295 - FRIDAY 13 DECEMBER 2024
Continuation - TUESDAY 17 DECEMBER 2024

AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH

MEMBERS PRESENT: Suzanne Philip (Chair), Marion Guppy and Mark Blackburn

APOLOGIES: Rick Grant, Adam Twomey, Emma Sharp and due to conflict of interest
Rachael Wright

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Steven Kubasiewicz, George Maly,
David Burrow and Sebit Rambang and attended for the continuation only
Ann-Marie Reynolds (Development Assessment Services)

COUNCIL REPRESENTATIVE: Jaimie O'Connor, Rob Taylor and Rodney Jessup

Meeting opened at 12 noon and closed at 3.50 pm
Meeting continuation 10.00 am and closed at 10.30am

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 4
PA2024/0320

SUBDIVISION TO CREATE 581 LOTS IN 18 STAGES OVER 7 YEARS

SECTION 8159 (213) TAYLOR ROAD, HOLTZE, HUNDRED OF BAGOT

APPLICANT

Cunnington Rosse Town Planning and Consulting

Pursuant to section 97 of the *Planning Act 1999*, Rachael Wright, Community Member of the Litchfield Division of the Development Consent Authority disclosed an interest and was not present during, contributed to or took part in the deliberation or decision of the Division in relation to this item.

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and Andrew Bartington (Project Director – Holtze Land Company Pty Ltd – landowner) attended.

Interested parties in attendance:- Graeme Finch (Ochre Blue Group), Rohan Langworthy and John-Paul MacDonagh.

Submitters: Gerry Wood and Heather & Alister Lear attended. Craig Leach an interested party attended the meeting with Mr & Mrs Lear.

Interested Party Chris Tickner (City of Palmerston) attended.

Mr Wood tabled aerial photos of housing development in various areas such as Tiwi, Coolalinga or Zuccoli showing different lot sizes.

RESOLVED
74/24

That, pursuant to section 46(4)(b) of the *Planning Act 1999* the Development Consent Authority (DCA) defer consideration of the application to develop Section 8159 (213) Taylor Road, Holtze, Hundred of Bagot for the purpose of subdivision to create 581 lots in 18 stages over 7 years, to require the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

1. Provide additional information, to the satisfaction of the consent authority, as to how the site can be identified for compact urban growth in the strategic framework to meet the mandatory requirements of Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) of the Northern Territory Planning Scheme 2020 (NTPS 2020).
2. Any amendments to the application that may result as a response to the above information request.

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 present application relates to Section 8159 (213) Taylor Road, Holtze, Hundred of Bagot (site). The site area consists of 46.46 hectares within Zone FD (Future Development) with a 25m wide strip of Zone PM (Proposed Main Road) along the northern allotment boundary. The site is not affected by any overlay. The site has frontage to Linco Road to the south, and Taylor Road to the east. The proposed development is for the purpose of subdivision to create 581 Lots in 18 stages over 7 years.

The application includes a proposed zoning plan, pursuant to sub-clause 2 of Clause 6.5.1 (Subdivision in Zone FD).

The Proposed Zoning Plan identifies:

- 416 Lots in Zone LMR (Low-Medium Density Residential) between 300m² and 595m².
- 146 Lots in Zone LR (Low Density Residential) between 600m² and 894m².
- 16 Lots in Zone PS (Public Open Space) 4 larger parks between 3840m² and 14507m² and 12 smaller parks (Linkage paths ranging between 360m² and 1326m²) including 2 entry parks (added after exhibition due to road truncation).
- 2 Lots in Zone MR (Medium Density Residential) at 3286m² and 3301m².
- 1 Lot in Zone CP (Community Purpose) at 2000m².

The NT Planning Scheme (NTPS) 2020 applies to the land and subdivision of land requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(ii), and therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan, Holtze to Elizabeth River Subregional Land Use Plan, and Greater Holtze Area Plan), zone purpose and outcomes of Clause 4.27 Zone FD – Future Development, and Clause 4.30 Zone PM – Proposed Main Road, and Clause(s) 5.3.5 (Development in Zones M and PM), 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR), 6.2.2 (Lots Less Than 600m² for Dwelling-Single), 6.2.3 (Site Characteristic for Subdivision in Zones LR, LMR, MR & HR), 6.2.4 (Infrastructure and Community Facilities Subdivision in Zones LR, LMR, MR and HR) and 6.5.1 (Subdivision in Zone FD) need to be considered, pursuant to Clause 1.10(4) of the NTPS2020.

(i) Part 6 – Subdivision and Consolidation Requirements

The requirements of Part 6 have been considered and it is found that the proposal complies with all relevant requirements, except Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR, and HR) and Clause 6.5.1 (Subdivision in Zone FD).

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Clause 6.2.1 (Lots Size and Configuration for Subdivision in Zones LR, LMR, MR and HR)

The application seeks to vary the requirements of Clause 6.2.1 (Lots Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) by providing 30 lots that do not achieve the minimum building envelope required by Table B to Clause 6.2.1 and providing 3 'battle-axe lots.'

Subclause 6 requires all proposed lots to conform with the building envelope requirements in Table B to Clause 6.2.1. However, 30 of the proposed lots do not conform with the respective building envelope requirements in Table B to this clause.

The application considers the adoption of 15m x 17m building envelope for some of the LR lots to be consistent with existing greenfield subdivision and can demonstrate that the lots offer sufficient space for dwellings-single with setbacks, private open space and car parking, noting that the width reductions apply to larger lot typologies (with a site area greater than 600m²), and that in the greenfield nature of the site, this will not disrupt an established subdivision pattern. 2 other proposed lots were also unable to accommodate a building envelope of 17m x 17m due to their irregular configuration.

Subclause 8 requires that there be no battle-axe lots. However, 3 of the proposed lots are shown in a battle-axe configuration.

The Authority notes that the report provided by Development Services Assessment (DAS) indicates that the proposed subdivision complies with all relevant clauses of the NTPS 2020, subject to a variation to subclause 6 and 8 of Clause 6.2.1 (Lot Size and Configuration in Residential Subdivision).

However, at its meeting, the Authority queried whether the proposed subdivision complied with sub-clause 5 of Clause 6.2.1 that states that *land is to be subdivided in accordance with Table A to... (Clause 6.2.1: Lot Size and Configuration in Residential Subdivisions)*.

Table A to Clause 6.2.1: Lot Size and Configuration in Residential Subdivisions lists the minimum Lot sizes for Zone(s) LR, LMR, MR and HR.

The Authority's concern relates to those Lots proposed to be within Zone LR (Low Density Residential) by the proposed zone plan submitted with the application.

The table separates the minimum Lot sizes for Zone LR between *Zone LR in greenfield areas identified for compact urban growth in the strategic framework* and Zone LR in all other areas.

Those Lots within Zone LR in greenfield area identified for compact urban growth in the strategic framework may have a minimum Lot size of 450m² with an average of 600m², whereas Zone LR in all other areas must have a

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minimum Lot size of 800m², pursuant to *Table A to Clause 6.2.1: Lot Size and Configuration in Residential Subdivisions*.

The proposed subdivision, and associated proposed zone plan, identifies 146 Lots in Zone LR, 137 of which have a Lot size between 600m² and 800m².

The Authority acknowledged that it was reasonable to consider the site as a greenfield area, being identified as a *Planned urban / peri-urban area* in the Darwin Regional Land Use Plan. However, the Authority considered it unclear whether the site was identified for compact urban growth in the strategic framework.

The Authority noted that the NT Compact Urban Growth Policy (CUG) did not apply to the application directly but was intended to provide guidance to the Greater Holtze Area Plan (GHAP). However, both the CUG and the GHAP seek to maximise the number of dwellings within 400m of an activity centre. As the GHAP identifies a proposed activity centre directly to the west of the site, this suggests that at least a portion of the site could be considered as being identified for compact urban growth. However, it remained unclear to the Authority as to whether those areas beyond 400m from the proposed activity centre were also identified for compact urban growth.

The Authority observed that it *must not consent to a subdivision that reduces a lot size by an area greater than 5% of the minimum specified in Table A to this clause: (a) in Zone LR...* pursuant to subclause 1 of Clause 6.2.1. That requirement is mandatory and there is no room for the exercise of discretion outside of those parameters. Any purported approval not in accordance with Clause 6.2.1(1) would be ultra vires of the consent authority's power and rendered a nullity. Therefore, it was acknowledged that, without certainty that the whole site is within an area identified for compact urban growth in the strategic framework, the Authority could not consent to those Lots with a proposed Lot size of less than 800m² and identified as Zone LR within the proposed zone plan as submitted within the application.

At the meeting, Brad Cunnington of Cunnington Ross Town Planning and Consulting, representing the applicant, provided an overview of the proposal.

Mr Cunnington stated that whilst the NTPS2020 does not specifically mention that this site is "identified for compact urban growth in the strategic framework," the applicant had taken the minimum dwelling densities identified by the GHAP for all of the site to mean that the site, in its entirety, was considered to be identified for compact urban growth.

In addition, Mr Cunnington noted that having lots with a minimum Lot size of 800m² may not achieve the density required by GHAP's Planning Principle 1: Acceptable Land Use and Development Response (iii) which seeks a "*minimum average densities of 10 dwelling per net hectares or more are encouraged through the balance of the residential area.*"

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In contrast, Mr Cunnington advised that the application could be amended to comply with the sub-clause 5 of Clause 6.2.1, by proposing Zone LMR for all Lots outside of a 400m radius of the activity centre. However, this was not the applicant's current proposal, nor their intention.

The application currently proposes approximately 16 dwelling per net hectare within 400m of an identified proposed activity centre, and approximately 12 dwelling per net hectare for the remaining balance of the site.

However, without greater certainty that the site is identified for compact urban growth, the Authority is concerned that it may not be empowered to consent to those Lots with a minimum Lot size of less than 800m² identified as proposed Zone LR in the proposed zone plan. For this reason, the Authority requests that the applicant provide confirmation from a relevant authority that the subject site is identified for compact urban growth in the strategic framework, pursuant to Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) of the Northern Territory Planning Scheme 2020 (NTPS 2020).

(ii) Part 3 – Overlays

There are no applicable overlays that affect this site.

(iii) Part 4 – Zone purpose and outcomes

The purpose of Zone FD (Future Development) is to *Identify an area that is intended for future rezoning development in accordance with the Strategic Framework is limited to a level that will not prejudice future development or is compatible with planned future purposes.* Therefore, the assessment of compliance with this clause is largely determined by its accordance with the Planning Principles of the Greater Holtze Area Plan.

The purpose of Zone PM (Proposed Main Road) is to *restrict development on land that is reserved for future development of a significant road transport corridor and associated transport infrastructure.* Zone Outcome 2 seeks that *Subdivision and development does not prejudice future establishment, operation and maintenance of the transport corridor as anticipated by the Strategic Framework.* Therefore, consideration of how the proposed subdivision will relate to the future establishment of the transport corridor is largely determined by its accordance with the Planning Principles of the Greater Holtze Area Plan and on advice from the relevant road agency. The responsible agency (The Department of Logistics and Infrastructure) did not object to the proposed subdivision.

(iv) Part 2 – Strategic Framework

The site is located within the Darwin Regional Land Use Plan and Holtze to Elizabeth River Subregional Land Use Plan 2022 and these regional and subregional land use plans have identified the site as land for 'Urban / Peri urban development.

The relevant area plan is the Greater Holtze Area Plan (GHAP). The Development Assessment Services (DAS) report considered that the proposed subdivision met all objectives of the GHAP. However, the report acknowledged that the proposed subdivision had achieved objectives 1, 3 and 4 by way of alternative solutions to the acceptable land use and development responses (acceptable response).

Planning Principle 1: Create active and sustainable neighbourhoods

The proposed subdivision provided an alternative solution to the acceptable response that sought 20 dwellings per net hectare or more within 400m of a proposed/existing activity centre. The alternative solution was to provide 16 dwellings per net hectare within 400m of the proposed local centre, and rely upon the adjoining site being over 5 hectares in area to accommodate additional higher density residential development closer to the proposed local centre as identified within the GHAP, and the provision of 2 Lots identified for Zone MD (Medium Density) in the proposed zone plan.

Planning Principle 3: Create safe residential environments and high amenity

The proposed subdivision provided an alternative solution to the acceptable response that sought to *minimise the provision of dual frontage lots where practicable*. The alternative solution was to consider the 39 Lots with dual frontage to the future Gunn Point Road as part of the broader balance of the whole proposed subdivision.

At the meeting, Mr Cunnington, advised that the acceptable response needed to be considered as part of the whole subdivision and not refer to the northern part of the site in isolation. Mr Cunnington explained that the proposed subdivision intended to connect across the site, from the northwest to the southeast, with roads designed in accordance with the NT Subdivision Development Guidelines. The application was also designed with the consideration that the future Gunn Point Road may be a road allowing speeds of up to 80 kilometres per hour and considered it impracticable to design residential lots to face onto such a road with such potential high speeds and frequencies.

Planning Principle 4: Create walkable neighbourhoods with high levels of permeability and route choice.

The proposed subdivision provided an alternative solution to the acceptable response that sought residential blocks with walkable lengths. The alternative solution was to ensure that no block length exceeded 400m.

2. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into account any submissions made under section 49, in relation to the development application.

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At the hearing, Mr Gerry Wood spoke to his written submission and tabled additional information (aerial and street images). The concerns raised at the hearing are summarised as follow:

Mr Wood indicated that the proposed open space may be sufficient and considered there to be a natural reserve nearby.

Mr Wood raised concerns that the application does not indicate any access to the existing schools in the area and recommended that connections to existing schools (e.g walking/cycling paths) would be a good outcome.

Mr Wood stated that he would have preferred this development to be a rural subdivision.

Mr Wood queried whether any contract between the developer and government had been undertaken.

The Authority explained that it only considers the application in accordance with *NTPS2020* and the *Planning Act 1999* and that such implied contracts are not a planning matter.

Mr Wood advised that he was not aware of this application until the last minute. The Authority explained that the application was advertised as per the *Planning Act 1999* and that additional signs were provided above the requirements of the *Planning Act 1999*. However, Mr. Wood suggested that there should have been a meeting with the Litchfield community to inform them of this development.

Mr Wood questioned why the *NTPS2020* allows for subdivision before rezoning. The Author explained that this planning application process for subdivision is common within Zone FD (Future Development) and requires any application for a subdivision to provide a proposed zone plan.

Mr Wood questioned whether Lots with a site area of 300m² could reasonably allow for 'family homes.' Mr Wood suggested that planners need to consider the people who live in these lots and whether these lots have room for living and space to grow a tree.

Mr Wood suggested that those Lots within Zone LR (Low Density Residential) should have a minimum Lot size of 800m².

Mr Wood referred to the images he had tabled at the hearing and asked why the proposed subdivision could not allow for larger lots to achieve an outcome like those found in Coolalinga. Mr Wood suggested that the proposed lots and associated setbacks do not reflect the Northern Territory's climate.

Mr Wood enquired as to whether there could be a condition to limit the clearing of the trees. Mr Cunnington advised that the site would be cleared in stages and that the developer is not intending to clear the whole site at once.

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Mr Wood enquired as to whether stormwater management had been considered for the proposed parks. Mr Cunnington, advised that the drainage predominantly discharges to east toward the Howard River. Any Development Permit, if issued, would include conditions with respect to stormwater management.

At the hearing, Mr Craig Leach spoke as an interested party, having not provided a submission during the exhibition period. His concerns raised at the hearing are summarised as follow:

Mr Leach raised concern about the cleaning of land as a result of the proposed subdivision.

Mr Leach noted that his main concerns were raised by Mr. Wood who had spoken earlier. Mr. Leach considered the site to be rural area and was hoping to see bigger lots proposed. Therefore, Mr Leach considered the proposed Lot sizes to be too small.

Mr Alister Lear and Mrs Heather Lear spoke to their written submission. Their concerns raised at the hearing are summarised as follow:

Mr Lear noted that he thought that the Greater Holtze Area Plan was supposed to gradually have larger lots as it got further away from the activity centre and was concerned that this intent was not visible in the application's documents.

Mr Lear considered these smaller lots illogical and not capable of managing the local climate.

Mr Lear raised concerns with the disappearance of Taylor Road in the Greater Holtze Area Plan as Taylor Road's removal would affect access to their property.

Mrs Lear advised that she only had 48 hours to response to this proposal.

Mrs Lear raised concerns regarding the appearance of multiple easements being located within proximity to the rear of their property.

Mrs Lear raised concerns that the Area Plan's information may be being used by Council to not grade Taylor Road which is their primary access to their property.

Mrs Lear believed that the Area Plan and proposed easements may affect the value of their Rural Residential property.

The Authority asked Ms. Lear if she had concerns with the application itself.

Mrs Lear is concerned that this proposal does not consider the area as Rural Residential, and that the Area Plan is being used to manipulate the development outcome.

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Therefore, Mrs Lear considers the proposed lots to be too small and not suitable for the local climate and suggests that the existing Rural Residential lots be supported.

In particular, Mrs Leah requested that larger lots be created to provide a buffer and transition from rural to urban.

Mrs Lear sought the applicant's contact details to discuss the application further and get answers to any additional questions.

Mrs Lear also noted that their driveway is being used for turning as the Taylor road ends near her property.

Mr Cunnington acknowledged the concerns of the submitters and provided context to the proposal. He noted that the application had responded to the current requirements of NTPS2020 and indicated that there was a market for the Lot sizes proposed. He also noted that the Greater Holtze Area Plan had identified the site for such urban development.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the 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 notes that the site is within Zone FD (Future Development) and Zone PM (Proposed Main Road). The purpose of zone FD is to: *Identify an area that is intended for future rezoning and development in accordance with the Strategic Framework. Development is limited to a level that will not prejudice future development or is compatible with planned future purposes.*

The DAS report concludes that the proposed subdivision is 'compatible with planned future purpose' of the site as it creates 581 Lots in 18 stages including the associated road networks, public open spaces, and the infrastructure needed in an urban residential area. The application includes required proposed zoning plan, identifying:

- 416 Lots in Zone LMR (Low-Medium Density Residential) between 300m² and 595m².
- 146 Lots in Zone LR (Low Density Residential) between 600m² and 894m².
- 16 Lots in Zone PS (Public Open Space) 4 larger parks between 3840m² and 14507m² and 12 smaller parks (Linkage paths ranging between 360m² and 1326m²) excluding 2 entry parks (adjoining road truncations) providing pedestrian access, and.
- 2 Lots in Zone MR (Medium Density Residential) at 3286m² and 3301m².
- 1 Lot in Zone CP (Community Purpose) at 2000m²

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In addition, the land has been identified for urban/ peri urban residential development within the Darwin Regional Land Use Plan, Holtze to Elizabeth River Subregional Land Use Plan, and Greater Holtze Area Plan.

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the Authority must consider 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 application was circulated to the relevant authorities. Comments and/or suggested conditions were received from Litchfield Council, Power and Water, Aboriginal Areas Protection Authority, Transport and Civil Services Division of the Department of Logistics and Infrastructure, Survey Land Records, City of Palmerston, Medical Entomology, NT Health, and the Department of Lands, Planning and Environment (including Rangelands Division, Weed Management Branch, Land Assessment Unit, Water Resources Division, Environment Division and Heritage Branch).

No objections to the proposed subdivision were received from any local or service authority.

Any comments regarding non-compliance with the NTPS2020 are considered within Section 51(1)(a).

Some comments were resolved by way of further information and amended plans provided by the applicant.

Concerns regarding the provision of adequate public open space for each stage was raised by Litchfield Council. However, the Development Assessment Services (DAS) report advised that the application's provision of public open space was compliant with the NTPS2020.

At the meeting, Jaimie O'Connor representing Litchfield Council, stated that the submission provided by Litchfield Council covered their comments and recommend conditions. Ms O'Connor noted that alternative conditions had been circulated to them prior to the hearing. Council requested, if any further amendments to the conditions are undertaken, that these be circulated to Council for comment.

As the Authority considers additional information is necessary to enable it to consider the application properly, the further consideration of service authority concerns and any appropriate conditions has been deferred.

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 site is currently undeveloped land. Therefore, this proposed development will have an impact on the current amenity of the area. This includes impacts on amenity resulting from any expected works to deliver a subdivision that is generally in accordance with the Greater Holtze Area Plan (GHAP) and Zone FD (Future Development) under the Northern Territory Planning Scheme (NTPS) 2020.

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Residential subdivision is anticipated within the Greater Holtze Area Plan (GHAP). Any subsequent development permit should include conditions to address potential amenity impacts during construction.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Deferral

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

SUZANNE PHILIP

Chair

18 December 2024