



03 June 2016

Mr Michael Holmes
Acting Director
Lands Planning
Department of Lands and Planning and the Environment
GPO Box 1680
Darwin NT 0801

Dear Michael

PA2015/0763

**Section 5758, Section 5761, Section 5827, Section 507
(905 Redcliffe Road, 580 Alverly Road, Monaghan Road, and 800 Freds Pass Road),
Lloyd Creek, Hundred of Strangways
Planning Scheme Amendment Application to Facilitate Development of a Rural Character
Estate by Introducing an Area Plan and Planning Principles, Rezoning from Zone R
(Rural) and Zone RL (Rural Living) to a Specific Use Zone, and Amending Various
Clauses to Ensure Ongoing Management**

Thank you for the Planning Scheme Amendment Application referred to this office on 28 April 2016, concerning the above. This letter may be tabled at Litchfield Council's next Council Meeting. Should this letter be varied or not endorsed by Council, you will be advised accordingly.

The following issues are raised for consideration by the Authority:

Council has provided below detailed comments on the extensive application indicating specifically where Council supports the proposed amendments and areas where Council does not support the amendment and recommends changes or requires additional information in order to be able to offer support for a particular point.

Given there are a few areas of concern where Council cannot support the application, an overall statement indicating that Council does not support the application in its current state is warranted. Specifically, Council does not support the absence of minimum lot sizes and an outlining of expectations of the amounts of lots of each type, the absence of clarity on whether multiple dwellings are proposed, inclusion of requirements related to public lighting, concern over potential conflicts between restrictions for clearing of native vegetation and Council's stormwater drainage requirements, and the absence of any proposed setbacks for any residential lots within the subdivision.

However, the areas of non-support are not insurmountable and the overall principles behind the development can be supported. The design philosophy appears sound and Council can commend the applicant on the detailed technical studies and investigations provided to date and committed to in the proposed amendment. Additionally, as noted above, there are several development requirements and design features that Council strongly supports within the

application. Should Council's concerns be addressed, Council would welcome the opportunity to review revised proposals and reconsider overall support for the development.

Council offers the following specific comments regarding the granting of a Planning Scheme Amendment for the subject application:

a) Consistency with Other Planning Documents

The proposal development of Noonamah Ridge is in accordance with the Darwin Regional Land Use Plan 2015, which designates the subject site for urban/peri-urban development. The application has indicated that the overall intent of the development is to be a rural estate, though it is acknowledged that smaller single dwelling allotments are clearly indicated as part of the development.

The application is not in accordance with the Litchfield Planning Concepts and Land Use Objectives 2002 document, which indicates that the subject site is expected to be developed with lots of 2ha and 8ha. However, it is noted that the Litchfield Planning Concepts and Land Use Objectives 2002 is in conflict with the above noted recently adopted Darwin Regional Land Use Plan 2015 and that the Litchfield Planning Concepts and Land Use Objectives 2002 may be superseded by the Draft Litchfield Subregional Land Use Plan 2016, currently under assessment by the Department of Lands, Planning and the Environment.

Within the Draft Litchfield Subregional Land Use Plan 2016, the subject site is designated to be urban/peri-urban development. It is noted that Council did not support the Draft Litchfield Subregional Land Use Plan 2016. However, Council did not support that document for a variety of reasons, one of which was the lack of supporting documentation indicating whether the sites proposed for urban development are in fact suitable for that type of development. In this instance, the proponents of the Noonamah Ridge development have provided background information through the application for a Planning Scheme Amendment and the Environmental Impact Assessment process that indicates that the type of urban and rural development proposed by the application can be supported either by the studies undertaken or by controls built into the proposed Area Plan and Planning Principles and the Specific Use Zone, which require additional studies to be undertaken and management plans put in place to ensure the suitability of the individual pieces of the site for development.

As such, the proposal can be considered consistent with the guiding planning framework currently within the NT Planning Scheme and expectations for development suitably supported by technical studies.

b) Coordinated Development of the Site as a Whole

Council can support the coordinated development of such a large site that is backed up by a strong plan and technical studies, as that planning process is likely to result in better overall outcomes for the rural community as a whole than ad hoc or piecemeal development of smaller portions of the rural area without a connected plan. Further, Council acknowledges that the expectation is for the site to be developed over a 20 to 30 year timeframe, resulting in gradual development of the area. As such, the provision of each subdivision application should provide opportunities to identify and rectify any concerns throughout the life of the development prior to progressing to further development stages.

c) Variety of Lot Sizes

Interest from the community has been shown in the potential for a variety of lot sizes within the municipality that would allow the community to age in place and provide for various family structures throughout an individual's life span. As a result, the provision of a range of lot types within the new community can be supported. This includes the

provision of some smaller lot sizes within the community, with restrictions on location for these lots as noted within the application.

Council can also offer strong support for the provision of larger lot sizes around the periphery of the development adjacent existing residential lots that would be complementary in size to these existing lots. The preservation of the existing expected level of amenity for these residents is of great interest to Council.

While Council can support the provision of a variety of lot sizes within the development, it could be helpful to include an expected lot mix within the Specific Use Zone text, to ingrain the expectations of a rural development within the zone. Under the current provisions, the application states that a variety of lot sizes will be provided, with lots less than 4,000m² located within 800m of an activity feature or community facility. Outside of that provision, there is no guarantee of any lot mix or location for various lot sizes. The applicant could provide then the majority of the rest of the development at 4,050m² with only a handful of 2ha or 8ha lots throughout the rest of the subdivision. If 80% of the subdivision ends up just over 4,000m², then the result is not a rural development. The presentation of the development as a rural estate gives the expectation that the majority of the development will have a rural character, which would be expected to be a minimum of 1ha to 2ha lots, which would be in character with the surrounding development. The lack of any expected lot mix within the zoning leaves Council and the public not really knowing what to expect for lot mix at subdivision stage and leaves the consent authority without any formal measure against which to judge the nature of the development.

In other areas of the Top End, developers have recently sold rezonings of sites to the public, Council and consent authority with the idea of a mix of lot types, but the actual development at subdivision stage has turned out to be primarily small lot development. While the lot size considered small may differ slightly in the Litchfield Municipality, this situation is not one which this Council wants to face. While Council is not recommending a prescriptive amount of dwellings in each category at this time, the zoning should at a minimum include general expectations or ranges for the amount of dwellings in each lot size. It would be expected in a rural estate that the majority of lots would again be a minimum of 1ha or 2ha in size. Council would reconsider support for a development that had a majority of smaller lots.

d) Subdivision

Council's overall support for the mixed use development is partly predicated on the intent stated within the application that lots within Noonamah Ridge would not be able to be further subdivided in the future to smaller lot sizes. Council supports the certainty that this principle would give future residents of the area. However, Council prefers the very clear table on page 57 of the application that indicates "No further subdivision permitted" for each of the various lot types to the vaguer wording proposed for changes to Clause 11.1.1 of the NT Planning Scheme. The lot classification scheme presented in the table provides an exceedingly clear assessment of where different types of lots should be located within the subdivision and Council recommends that a table of this nature be included within the Specific Use Zone text, in order to best guide development and fulfil the intent of the development as stated by the proponents. A table such as this would provide a clear way for the consent authority to measure whether future proposed subdivision applications and the master plan have met the intent presented to the public during the rezoning phase. The wording of the change to Clause 11.1.1 of the NT Planning Scheme as currently proposed appears to leave it open for some future subdivisions, if a complicated series of conditions are met. Council would prefer the wording stated in the application that simply "no further subdivision would be permitted".

e) Minimum Lot Sizes

While noting support with the support of a variety of lot sizes and for some smaller lot sizes, Council does have concerns with the lack of an overall lot size table or minimum lot size for the development. The closest the Specific Use Zone comes to noting minimum lot sizes or having a defined lot type is when specifying the future normalisation of zoning. However, there is nothing in the Specific Use Zone that states a minimum lot size. Council strongly recommends including a table of minimum lot sizes within the Specific Use Zone text.

The application clearly indicates that lots in Zone SD (Single Dwelling) are expected. In greenfield areas covered by an Area Plan, which would appear to apply to this subdivision, lots in Zone SD (Single Dwelling) may be as small as 450m². Council does not support any single dwelling lots in Noonamah Ridge smaller than 800m².

f) Multiple Dwellings

Further, the application itself refers several times to multiple dwellings; however, the Area Plan and Specific Use Zone text do not specifically state whether or not multiple dwellings are expected to be developed within the area. Conversations between Council and the developers indicate that multiple dwellings may be considered for the development. While these types of dwellings could provide for single people or small families, in the rural area, Council would seek that multiple dwellings be given serious consideration and design control.

Council has significant concern over the appropriate development of multiple dwellings within this new community. Council notes that under the NT Planning Scheme, lots of 300m² could be provided in Zone MD, which Council does not support for Noonamah Ridge. Council could consider support for a very limited amount of multiple dwellings only within a rural activity centre.

Council recommends that should multiple dwellings be allowed, there be a requirement that the amount of multiple dwellings be limited to no more than approximately 2% of the total number of dwellings within the entire subdivision. Further, these developments should also be limited in height to two stories and again should be located immediately within the rural activity centre. Council would recommend the provision of any multiple dwellings only inside of or within 400m of the rural activity centre.

Council would offer greater support for attached townhouse-style development rather than apartment-style units. However, Council could support shop-top housing of single dwellings over commercial units, which are currently not permitted in a commercial zone under the NT Planning Scheme. For all types of multiple dwellings, strong design controls would be needed to ensure compatibility with the rural nature of the community.

Council recommends that any proposal for multiple dwellings be specifically addressed or specifically excluded from the Specific Use Zone text and that any proposal for inclusion be recirculated to the Council and general public.

g) Independent Units and Potential for Dual Occupancy

The application has not addressed independent units and whether or not this development type is expected. As independent units have not been prohibited, it is assumed that these developments would be allowed. Given that, while the development limits the amount of residential lots to 4,200, each of those lots could include an independent unit, effectively doubling the number of total dwellings in the subdivision. While it is not realistically expected that each site would have two units, practical experience in Litchfield indicates that a good majority of the sites would have independent units. If the applicant is seeking to create a rural estate, it is recommended that the Specific Use Zone prohibit or otherwise restrict the development of independent units within Noonamah Ridge.

Further, there is a current Planning Scheme Amendment on public exhibition that would allow for dual occupancy on lots in Zone SD (Single Dwelling) over 1,000m² in area. As this development very clearly intends a large number of lots that would fit that category, should the amendment be approved, there is another doubling of the total number of dwellings that could be created on those lots. Further, under the proposed amendment, independent units are not to form part of the residential density calculation for a site. Therefore, it seems that a site could potentially develop dual occupancy and independent units, again leading to many more dwellings than expected within the development. It is recommended that should the dual occupancy amendment be approved prior to the approval of this amendment, dual occupancy developments should not be permitted within Noonamah Ridge.

h) Smaller Lot Sizes and Community/Commercial Needs

For smaller lots to be successful in the primarily rural community, Council can only support that type of development when it is coordinated with appropriate commercial and community services. As such, Council can support the development of smaller lot sizes when connected with rural activity centres. Council supports the provision of spaces for local employment and the provision of social infrastructure to support community needs. Specifically, Council can support the requirement for provision of a public school and sports fields, community garden, community centre and land for a volunteer fire brigade as part of Stage 1 of the development. Council considers that it is important to provide for community and commercial needs at the outset of the subdivision, rather than leaving these essential parts of a community to be provided at an unknown later date.

i) Public Lighting

While Council supports the development of commercial and community spaces in the rural activity centre, Council notes that the intent of this area is to draw activity to the space. As such, Council cannot support the proposed Clause 10 of the Specific Use Zone text that addresses public lighting and proposes to eliminate overhead streetlights. Firstly, street lighting and public road infrastructure for Council roads is rightfully controlled by the individual Council's development standards, not by the NT Planning Scheme. Council contends that any concerns with street lighting should be dealt with at subdivision stage with Litchfield Council and that restrictions on a Council managed asset should not be included in the NT Planning Scheme. It is inappropriate for an NT Government document to attempt to regulate a Council asset. Council strongly objects to Clause 10 and requests that it be removed from the proposed Specific Use Zone. Council will work with the developer on the provision of appropriate levels of street lighting, where street lighting is required for safety and amenity purposes.

j) Architectural Design Guidelines and Demountable Structures

Council supports the provision of architectural design guidelines to guide the types of housing developed within the community. Council also supports the requirement for all demountables to be required to gain consent to ensure the architectural vision of the development. Council further recommends that if the intent is to ensure higher quality design for these features that consideration be given to further amendment to Clause 6.8 such that landscaping and architectural embellishments are required for demountable structures.

k) Infrastructure

Council supports the clauses requiring provision of infrastructure prior to development and supports the requirement for an ongoing water quality and quantity monitoring plan.

l) Open Space

Under the NT Planning Scheme, an urban residential development must provide 10% of the site area as open space and rural residential developments are not required to

provide open space, given the expected amount of open space within the individual allotments. As such, given the integrated nature of the proposed development, Council can support the provision of 15% of the site as open space.

However, Council notes that at different points in the proposed zoning text, there is the use of the term "green space" and the term "open space". It is unclear whether these terms are interchangeable or if green space may refer to conservation or other drainage features that may not be suitable for open space uses. It is also unclear if the proposed open space would include any lake or open water body features. It is recommended that clarity be provided around what is "green space" and what is "open space" or that a single defined term be used.

Council notes that there appears to be some expectation within the application that Council may fully take on all public open spaces within the development, which has not been agreed to by Council at this time. While it is the intent of Council to develop a public open space policy that would guide any future Council control of public open space sites and expectations for development of these sites, Council seeks further discussions on the ownership and responsibility for these spaces.

m) Clearing of Native Vegetation

Council is supportive of the application's proposals for creating restrictions to clearing of native vegetation in order to preserve the rural nature of the overall development. Council supports limiting the amount of land that can be cleared on a single block for lots larger than 2,000m². However, for the areas where clearing is permitted with consent, Council recommends that reasons consenting to the additional clearing of native vegetation could be supported should be included in the application. Otherwise, there are no clear measures against which to evaluate an application for clearing.

n) Stormwater Drainage

Further to the above comments, Council has concerns regarding the requirements for clearing and the potential for those restrictions to conflict with Council's stormwater drainage requirements for urban areas. Typically, Council's stormwater drainage requirements differ for urban and rural areas, and the distinction between the two types of areas is determined on the lot sizes within the subdivided area.

For smaller lot urban developments, Council's stormwater drainage requirements require that stormwater drainage be directed across the lot to the street. For larger lot developments, Council's stormwater drainage requirements permit sheet flow across lot boundaries. Council has some concerns that if there are areas proposed with vastly differing lot sizes along the street, it will result in areas where stormwater drainage from larger lots may be sheet flowing across boundaries into smaller lots, which is not an acceptable stormwater drainage solution. Also, if urban areas are to direct sheet flow to the street, there may be some areas where lots would typically be regraded to slope towards the street, which would be in conflict with the proposed Specific Use Zone requirements to limit clearing of vegetation on these lots.

The development proponents were made aware of Council's concerns with this varied lot size arrangement in June 2015; however, the applicant has not discussed this issue further with Council since that time and no resolution to the issue has been reached.

Council requests that no Planning Scheme Amendment be approved for the development prior to reaching resolution with Council on this essential matter of appropriate stormwater drainage infrastructure, which is Council's responsibility. Council does not see this issue as insurmountable for the development, but it would be premature for a Planning Scheme Amendment to be approved that creates requirements for the development that could result in the inability for appropriate stormwater drainage designs to be developed.

Council does not wish to create stormwater drainage issues that would have a negative effect upon new residents or Council's infrastructure. An appropriate method of resolving these stormwater concerns is essential to approval of this development.

Further, Council has not entered into any agreements with the developer for management or ownership responsibilities for the proposed water sensitive urban design features within the subdivision or the proposed lake within the subdivision. Council notes that a management body for the development may be able to retain ownership of such features and as such does not object to the overall stormwater design proposal at this time. Further discussions with Council are warranted prior to Council assuming responsibility and/or ownership of these drainage features that are not typically used within the municipality.

o) Building Envelopes and Setbacks

Council understands that the clearing of vegetation on blocks will be controlled somewhat by the proposed building envelope plans required to be submitted for each residential block with future subdivision applications. While Council supports the idea of restrictions to building envelopes to create the proposed rural estate development, Council cannot support the proposal to leave all notion of building envelopes and building setbacks to the subdivision stage.

In terms of location of features on a block, the application addresses that for lots greater than 2,000m², only 25% of the lot can be cleared for buildings, plus 15% for a landscaped garden. Council can support this requirement, while noting that this clause should consider the inclusion of a cleared driveway space into the 25% cleared area. Given the larger size of some lots proposed, driveways may take up a substantial portion of the lot.

However, at this point, the Specific Use Zone does not mention any required setbacks for any lot sizes or any measures other than the one above related to building envelope requirements. The proposal to change Clause 7.3 of the NT Planning Scheme absolves the development from adhering to any stated setbacks. The absence of any requirements for setbacks or building envelopes is completely unacceptable to Council.

Under this proposal, the developer could propose zero lot line setbacks, or one metre setbacks, for any range of lot sizes within a subdivision application and there would be nothing in the zoning or requirements that says that situation is not allowed.

There is no supporting information given in the application that explains why the current setbacks in the NT Planning Scheme are unacceptable or will not accomplish the intent of the subdivision design. As such, Council cannot support any setbacks less than those minimum requirements already included for the various respective lot sizes and zones. The current setbacks are well established as providing appropriate buffers for residential amenity in both urban and rural environments and the application has provided no information on why these setbacks should be varied.

A minimum setback table should be included into the building requirements clause of the Specific Use Zone that sets up the minimum setbacks allowed for each expected zone. The building envelope plan may then provide additional areas of a lot that may not be cleared, but the minimum setback should be guaranteed to give certainty to future residents and should not be breached.

p) Numbering of Clauses

In Clause 3 Subdivision of the proposed Specific Use Zone, section 1.c.ii references building envelopes at Clause 4, which are actually addressed at Clause 5 and section 1.d.x references bushfires in accordance with Clause 6, which is actually addressed at Clause 8. All references should be doubled-checked for cross-referencing and clarity.

If you require any further discussion in relation to this application please do not hesitate to contact me on 08 8983 0632.

Yours faithfully



Peter Reeve
Acting General Manager Infrastructure and Planning