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 REPORT NUMBER: 15TS0223 CR:dj
 SUBJECT: SECTION 4106 (1) BOULTER ROAD, BERRIMAH - REZONE FROM CP (COMMUNITY PURPOSES) TO ZONE MD (MULTIPLE DWELLING RESIDENTIAL) PA2014/0168

- The proposal is to rezone the entire lot to MD, in spite of the significant constraints and minimum lots sizes.
- Traffic modelling based on the higher density should be done prior to any rezoning.

RECOMMENDATIONS

- A. THAT Report Number 15TS0223 CR:dj entitled Section 4106 (1) Boulter Road, Berrimah - Rezone from CP (Community Purposes) to Zone MD (Multiple Dwelling Residential) PA2014/0168 be received and noted.
- B. THAT Council endorse the submission to the Reporting Body dated 18 December 2015, strongly objecting to the rezoning, within **Attachment B** to Report Number 15TS0223 CR:dj entitled Section 4106 (1) Boulter Road, Berrimah - Rezone from CP (Community Purposes) to Zone MD (Multiple Dwelling Residential) PA2014/0168.

BACKGROUND

Site and Surrounds

The site is located on the corner of Boulter Road and Amy Johnson Avenue. It is currently undeveloped. Substantial unauthorised clearing of native vegetation has taken place on the site and this is currently the subject of investigation by the Department of Lands Planning and the Environment.

Figure 1 Site Context



Source: Near Maps

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The site is bounded by Amy Johnson Avenue to the west and Boulter Road to the South. Marrara Garden Centre is located to the east of the site with horticulture also on the Sothern side of Boulter Road. Marrara Christian College lies to the north of the site. A number of residential zoned sites further along Boulter Road are currently subject to planning applications, under construction, or have already been developed for medium density development.

Site Development History

There is a substantial planning history associated with the site:

- PA1990/0327 – Development Permit (DV3912) issued for restaurant/convention centre and cluster dwellings on the site on 7/8/1990. Extension of time approved on 1/9/1992.
- PA1993/0464 – Planning Scheme Amendment Application to rezone site from CP to R1. Application initially withdrawn but subsequently refused on re-lodgement/consideration.
- PA1999/1635 – Application for indoor and outdoor recreation and childcare centre. Application withdrawn.
- PA2002/0056 – Application for restaurant, convention centre and 34 x 2 bed & 34 x 3 bed cluster dwellings refused on 12/3/2002. The application was refused for the following reasons:
1. The application is inconsistent with the NT Planning Scheme, particularly with respect to the policy of the CP (Community Purposes) zone, which requires residential development to be in association with and ancillary to the primary use of the land.
 2. The application does not adequately address the physical constraints of the land or consider the environmental implications the development of parts of the site would have with respect of the Rapid Creek Catchment.
 3. The development is inconsistent with the character of the locality and will not make a positive contribution to the future amenity of the area
- PA2002/0813 – Enforcement investigation in relation to control of clearing, filling and excavation.
- PA2004/0708 – Subdivision application to create 2 lots – expired.
- PA2014/0277 – Enforcement investigation in relation to clearing in excess of 1ha of Native Vegetation in Zone CP.

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DISCUSSION

Current Proposal

The application seeks to rezone the subject site, Section 4106, from Zone CP (Community Purposes) to Zone MD (Multiple Dwelling Residential). The site has an area of 7.44ha.

Whilst the entire site is proposed to be rezoned as Zone MD, the application states that part of the site beside Amy Johnson retains water and that this area is to retain some of its native vegetation. It is noted that a significant proportion of the site has already been cleared, without the benefit of development consent.

Figure 2 Aerial Photograph of site



Source: Near Maps (5 July 2014)

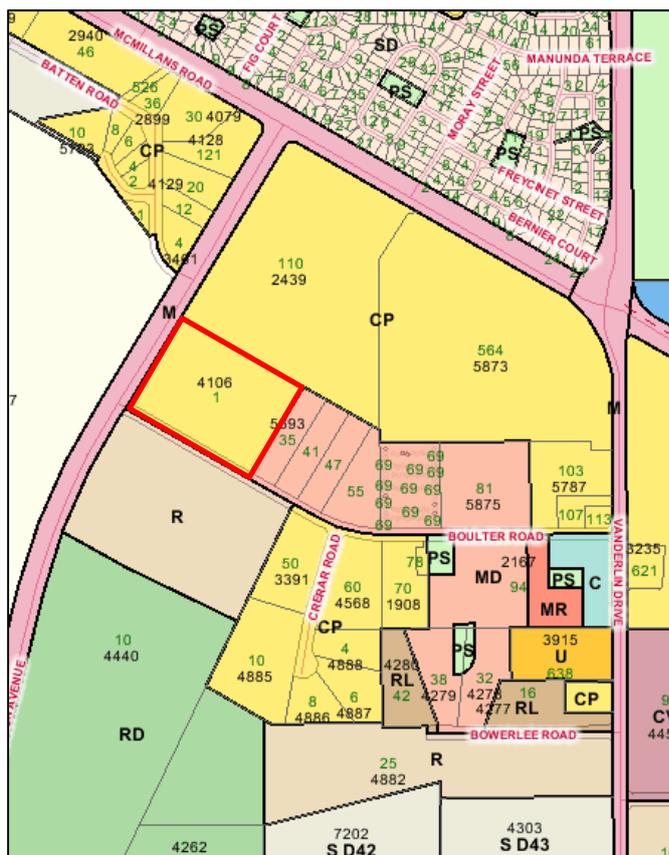
The application is accompanied by a brief report from ADG Engineers (Aust) Pty Ltd on development feasibility and from EcOz Environmental Services on the environmental constraints and opportunities on the site.

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Application Assessment

The site is currently zoned CP, the primary purpose of which is to provide for community services and facilities (Refer to **Figure 3** below).

Figure 3 Zoning Map



Source: NT Atlas

While currently zoned CP, the Berrimah North Area Plan (Map 1 of 2) identifies part of the site for residential development: primarily a rural residential buffer with some residential to the east of a preferred new internal roadway (Refer to **Figure 4** over). The area plan does not nominate a specific density for the land east of the roadway, however, as the land is within the biting insect zone, a minimum 2000m² average lot size must be achieved across the site.

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The Berrimah North Area Plan and Planning Principles identifies the following constraints in relation to the site:

- The south western portion of the site (estimated to be approximately 1.6ha) is demarcated as having '*development restricted by constraints*'
- This restricted development portion of the site is also identified as '*a discharge control feature and drainage swale*'.
- This drainage swale acts as a detention basin for stormwater drainage from a number of other lots up catchment along Boulter Road.
- Most of the remainder of the site is identified as a Rural Residential Buffer
- The entire site is located within the Biting Insect Buffer of Marrara Swamp.
- There is an indicative new roadway through the site connecting Boulter Road to a future road running parallel to Boulter Road.
- The ANEF 20 contour line lies to the south of the site. Though outside of this area, the plan acknowledges that dwellings located close to ANEF 20 are to comply with the requirements of AS2021.
- The site is located over 700m from the proposed neighbourhood centre

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Figure 4 Berrimah North Area Plan



Berrimah North Area Plan 1 of 2

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Area of site identified as having 'Development Restricted by Constraints'

The south western portion of the site (estimated to be approximately 1.6ha) is identified as having development restricted by constraints with the area also identified for a discharge control feature and drainage swale.

The Development Feasibility Statement prepared by ADG Engineers (Aust) Pty Ltd which accompanies the application states that the intent of this restricted development area is to retain the existing nature of this area by preventing ground disturbing activities within its boundaries and that there will be no impact on this area as a result of the proposal.

The Planning Principles for Berrimah North require that future development demonstrates a designed response to natural drainage by providing urban drainage that responds to the landform and natural drainage pattern, and incorporates stormwater management that accords with the strategic drainage framework of the Berrimah North Drainage Study. They also require maintaining overland flow and managing stormwater discharge with detention structures and the like, to mitigate nutrient rich runoff into the receiving environment, while minimising the potential for biting insects to breed in such infrastructure.

The above requirement and the identification of the site as a discharge control feature and drainage swale, suggests that the application should demonstrate that this area can incorporate stormwater management that accords with the strategic drainage framework of the Berrimah North Drainage Study. This has not been demonstrated in the application. While it is acknowledged that the application is for rezoning and not subdivision or development, the rezoning of the entire site for Zone MD, including this restricted area, cannot be considered in the absence of evidence that the stormwater can be adequately managed. No details of the proposed stormwater management have been submitted.

It is also noted that it is unclear as to whether the indicative subdivision layout submitted with the application impacts on this restricted development area (The applicants appear to have referenced the narrower development restricted area identified in the previous 2010 Area Plan, which was prepared prior to the detailed stormwater drainage study for the area).

Waterlogging soils

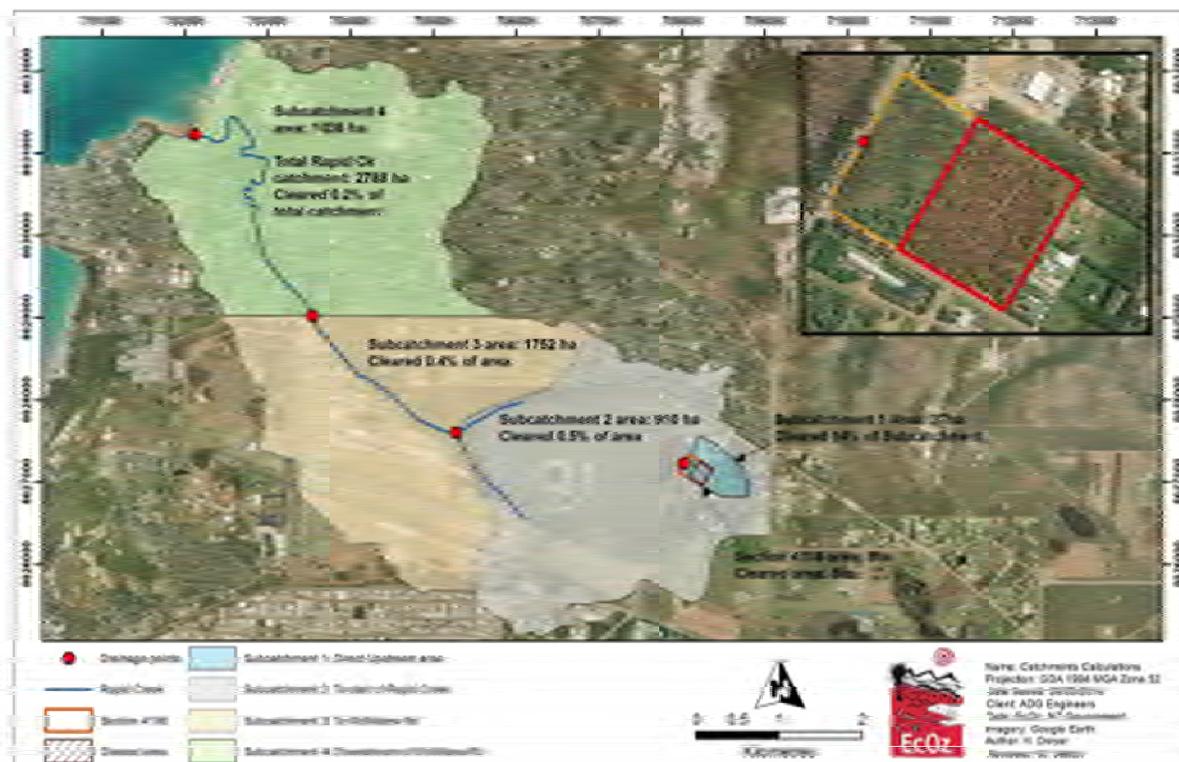
The environmental report notes that 40% of the site has soils classed as 'moderate to high' or 'severe' for seasonal waterlogging.

Rapid Creek Catchment

The site is located in the upstream reaches of the Rapid Creek Catchment and runoff from the site currently drains to the west, flowing through a drain under Amy Johnston Avenue and into Marrara Swamp.

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Figure 5 Rapid Creek Catchment



Source: PA2014/0168 – EcOz Environmental Report

The report indicates that the recently cleared area of the site represents a significant proportion of the sub-catchment upstream of Amy Johnson Avenue (14%) and a small portion of the Rapid Creek catchment to the flood mitigation weir (0.5%) and McMillans Road (0.4%).

It should be noted that these figures refer to the cleared area only and not the entire area proposed to be zoned MD. The area to be developed, as shown on the indicative subdivision layout (**Figure 4** above), appears to be slightly more extensive than the cleared area.

The Environmental Report prepared by EcOz Environmental Consultants recommends that flood modelling be conducted to investigate the potential risks of flooding associated with increased run-off as a result of developing the site, both on the property itself and Amy Johnson Avenue. In addition to any impacts that may occur downstream from higher densities, consideration should be given to how changing the drainage detention swale will impact properties upstream that under the Area Plan all drain to this site.

The Environmental Report indicates that the western section of the site is seasonally inundated. The Development Feasibility Statement also acknowledges that the site currently experiences flooding from the backwater effects of Marrara Swamp. To achieve flood immunity on the area of the site outside the restricted development area it is proposed to fill the site – possibly up to 1.6m above the existing ground

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level (though it is stated that this depth may be subject to change). It is stated that the flood extent change as a result of the proposed fill is not quantifiable and hence will not negatively affect the existing environment within the restricted development. There is no comment on changes to the flood extent beyond the boundaries of the site or how the proposed fill might impact on potential flood risk to Amy Johnson Avenue, Boulter Road or adjoining properties. As noted above, no details of the proposed stormwater management have been submitted.

Surface Water quality

The environmental report indicates that recent clearing on the site gives rise to a risk of erosion and sediment transport in the absence of any mitigation measures. No details have been submitted on how this risk is to be managed or how potential impacts on downstream water quality in Rapid Creek is to be eliminated. Sediment and erosion controls should be put in place during any construction works and for any ongoing land uses.

Figure 6 Indicative Subdivision layout submitted with application



Source: PA2014/0168 – Planit Consulting

Rural Residential Buffer

A large portion of the site (estimated to be approximately 3.8ha) has been identified as a Rural Residential Buffer as it is affected by constraints such as biting insects and as such the Planning Principles specify reducing the residential density in this portion of the site.

The minimum lot size in Zone RR (Rural Residential) is 0.4ha, giving a potential maximum yield in an area of this size of up to 9 – 10 units.

Under the proposed Zone MD, the area of the site identified as a Rural Residential Buffer (land outside of the restricted area, to the west of the proposed roadway) could yield up to 126 units (based on 300m² minimum lot size). It is noted that the

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applicant's indicative subdivision layout (which appears to include part of the development restricted area) shows a potential yield of 118 units in this area. The potential yield from the entire site is indicated as 178 units.

Biting Insects

The site is within a Biting Insect Buffer area. The environmental report submitted with the application indicates that consultation with the NT Department of Health's Medical Entomology Branch indicated that the number of mosquitoes at a nearby trapping site on Batten Road have increased dramatically in the last two years, including higher numbers of the species that carry Ross River virus and that this may be due to human induced changes to the drainage properties of Marrara Swamp.

The report notes that increasing urbanisation in the Marrara Swamp catchment could lead to increased areas and periods of time that mosquito breeding habitats are available. To address biting insects, the report recommends that the design of the stormwater drainage systems incorporate measures to prevent the creation of increased/permanent surface flows to Marrara swamp but notes that there may be limited options available to do this.

Given the recent increase in biting insects, it is considered important that both appropriate stormwater drainage design and management to reduce biting insect breeding areas and appropriate land uses are implemented in this area.

Traffic Impacts

The indicative subdivision layout submitted with the application indicates that up to 178 units could be accommodated on the site. However there is no assessment of the potential traffic impacts. The Area Plan significantly restricts the density on the subject site to a minimum average lot size of 2,000m² (within the Biting Insect Buffer). This would equate to 37 lots cross the 7.44ha lot (inclusive of the restricted development area, less if this area is excluded). As this significantly varies from the density in the Area Plan, further investigations should be undertaken to ensure that the traffic studies and proposed road network for Berrimah North have sufficient capacity to accommodate the additional density proposed.

Infrastructure

The Northern Territory Government undertook detailed Drainage and Transport studies for the Berrimah North area, resulting in recommendations for significant upgrades to stormwater drainage systems and road infrastructure to cater for the proposed development within the Berrimah North Area Plan.

The ability to support the level of increased development proposed under the Area Plan is predicated by the provision of this infrastructure. Therefore it is recommended that the City of Darwin does not support any further rezoning of land in this area until a fully funded implementation plan for infrastructure upgrades to support the Area Plan is in place.

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Key Council Issues

- The proposal conflicts with the vision for the site set out in the Berrimah North Area Plan and Planning Principles.
- No details have been submitted of the impact of the proposed fill outside of the boundaries of the site, particularly on Amy Johnson Avenue, Boulter Road or adjoining properties.
- The site is located within the Rapid Creek Catchment and no details of the proposed stormwater management have been submitted.
- The area of the site demarcated as having development restricted by constraints and identified for a discharge control feature and drainage swale is included in the area to be rezoned MD.
- The report also notes that 40% of the site has soils classed as 'moderate to high' or severe' for seasonal waterlogging.
- The site is located within a biting insect buffer and the environmental report submitted with the application indicates that high numbers of mosquitoes are being recorded in the area and that the increased urbanisation of the area could increase this further.
- No details have been submitted on the potential traffic impacts.
- No details of required infrastructure upgrades have been submitted.

Summary

It is recommended that Council object to the proposed rezoning on the following grounds:

1. The application is inconsistent with the NT Planning Scheme, particularly with respect to the Berrimah North Planning Principles and Area Plan, which identifies part of the site as being unsuitable for development due to drainage issues with a large portion of the site identified as a rural residential buffer, which is at odds with the MD zoning proposed for the entire site.
2. A large portion of the site is indicated for RR (Rural Residential) buffer, which is inconsistent with the proposed MD zoning.
3. There is concern that proposals to fill the site may result in a displacement of localised flooding onto Amy Johnson Avenue, Boulter Road or adjoining properties. The applicant has not submitted details of the hydraulic modelling or potential changes in flood extent outside the boundaries of the site.
4. No details for the proposed stormwater management of the site have been submitted. There is concern that the development of the site for multiple dwelling development in line with a MD zoning would increase the risk of flooding on adjacent properties.

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5. The site is located within the Rapid Creek Catchment. The environmental report indicates that recent clearing on the site gives rise to a risk of erosion and sediment transport in the absence of any mitigation measures. No details have been submitted on how this risk is to be managed or how potential impacts as a result of future multiple dwelling development on the site on downstream water quality in Rapid Creek is to be eliminated.
6. The soil on 40% of the site is classed as 'moderate to high' or severe' for seasonal waterlogging.
7. The site is located wholly within the Biting Insect Buffer. The environmental report submitted with the application acknowledges that there has been increased number of mosquitoes in the area including higher numbers of the species that carry Ross River virus and that increasing urbanisation in the Marrara Swamp catchment could lead to increased areas and periods of time that mosquito breeding habitats are available. The Area Plan indicates that lots within the Biting Insect Buffer should achieve a 2,000m² average lot size. This would equate to 37 lots cross the 7.44ha lot (including the restricted development area).
8. No details of the potential traffic impacts associated with the rezoning of 7.44ha to Zone MD, with an indicative potential development yield of 178 units, have been submitted.

Rezoning the site to a blanket MD zoning assumes that the entire site is suitable for this use, when it has been clearly highlighted through the Area Plan that constraints exist. Any rezoning of the site should be consistent with the Berrimah North Planning Principles and Area Plan, providing multiple zones across the site.

In addition to specific site issues, it is recommended that Council not support any further rezoning within the Berrimah North Area Plan until a fully funded implementation plan is finalised for necessary stormwater and road infrastructure upgrades.

CONSULTATION PROCESS

In preparing this report, the following City of Darwin officers were consulted:

- Manager Technical Services
- Strategic Town Planner

POLICY IMPLICATIONS

As referred to in body of the report.

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BUDGET AND RESOURCE IMPLICATIONS

There are no costs associated with the rezoning liable to Council.

RISK/LEGAL/LEGISLATIVE IMPLICATIONS

There are no legal or legislative implications at this stage. However, in the absence of any stormwater management details, the rezoning of the site and subsequent development in line with an MD zoning could give rise to a risk of flooding on Amy Johnson Road, Boulter Road or adjacent properties.

The rezoning of the area of the site demarcated as having development restricted by constraints and identified for a discharge control feature and drainage swale for residential development sets an undesirable precedent.

ENVIRONMENTAL IMPLICATIONS

As above, in the absence of any stormwater management details, the rezoning of the site and subsequent development in line with a MD zoning could give rise to a risk of flooding on Amy Johnson Road, Boulter Road or adjacent properties.

COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

DROSSO LELEKIS
MANAGER DESIGN, PLANNING &
PROJECTS

LUCCIO CERCARELLI
GENERAL MANAGER
INFRASTRUCTURE

For enquiries, please contact Cindy Robson on 89300 528 or email:
 c.robson@darwin.nt.gov.au.

Attachments:

Attachment A: Development Application, Section 4106 (1) Boulter Road, Berrimah - Rezone from CP (Community Purposes) to Zone MD (Multiple Dwelling Residential) PA2014/0168

Attachment B: City of Darwin, Letter of Response to Reporting Body, dated 18 December 2015

18 December 2015

Please quote: 3270797CR:dj
Your reference: PA2014/0168

Mark Meldrum
Director of Lands and Planning
Department of Lands, Planning and Environment
GPO Box 1680
DARWIN NT 0801

Dear Mr Meldrum

**Parcel Description: Section 4106 – Hundred of Bagot
1 Boulter Road, Berrimah**

**Proposed Development: Rezone from CP (Community Purposes) to Zone
MD (Multiple Dwelling Residential)**

Thank you for the Development Application referred to this office 20 November 2015, concerning the above. This letter may be placed before the City of Darwin's, Ordinary 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:

- i). **The City of Darwin strongly objects to the proposed rezoning for the following reasons:**
 - a) The application is inconsistent with the NT Planning Scheme, particularly with respect to the Berrimah North Area Plan and Planning Principles, which identifies parts of the site as being unsuitable for development due to drainage issues. The remainder of the site is also within the biting insect buffer zone with a large portion of the site identified as a rural residential buffer, all of which is at odds with the MD zoning proposed for the entire site.
 - b) The Northern Territory Government undertook detailed Drainage and Traffic studies for the Berrimah North area, resulting in recommendations for significant upgrades to stormwater drainage systems and road infrastructure to cater for all proposed development within the Berrimah North Area Plan.

The ability to support the level of increased development proposed under the Area Plan is predicated by the provision of this infrastructure. Therefore, the City of Darwin does not support this or any further rezoning of land in this area until a fully funded implementation plan for infrastructure upgrades to support the Area Plan is in place.

- c) The indicative development proposal provided with the rezoning application indicates substantial fill to occur within areas that are seasonally inundated (and identified as a discharge control feature and drainage swale for the northern side of Boulter Road on the Area Plan). There is concern that any proposal that does not comply with the adopted drainage scheme for the area may result in flooding onto Amy Johnson Avenue, Boulter Road or adjoining properties. The applicant has not submitted any details of the hydraulic modelling to demonstrate stormwater will be appropriately detained and managed within the boundaries of the site.
- d) No details for the proposed stormwater management of the site have been submitted. There is concern that the development of the site for multiple dwelling development in line with an MD zoning would increase the risk of flooding on adjacent properties.
- e) The site is located within the Rapid Creek Catchment. The environmental report indicates that recent clearing on the site gives rise to a risk of erosion and sediment transport in the absence of any mitigation measures. No details have been submitted on how this risk is to be managed or how increased multiple dwelling development on the site will impact downstream water quality in Rapid Creek.
- f) The soil on 40% of the site is classed as 'moderate to high' or severe' for seasonal waterlogging.
- g) The site is located within a Biting Insect Buffer. The environmental report submitted with the application acknowledges that there has been increased numbers of mosquitoes in the area including higher numbers of the species that carry Ross River virus and that increasing urbanisation in the Marrara Swamp catchment could lead to increased areas and periods of time that mosquito breeding habitats are available.
- h) The Area Plan indicates that lots within the Biting Insect Buffer should achieve a minimum 2,000m² average lot size. This would equate to 37 lots cross the 7.44ha lot (less if the restricted development area is excluded).
- i) The indicative subdivision layout plan submitted with the application indicates that up to 178 units could be accommodated on the site.

However, there is no assessment of the potential traffic impacts. The Area Plan significantly restricts the density on the subject site. Given that an increase from 37 to 178 dwellings significantly varies from the density in the Area Plan, further investigations should be undertaken to ensure that the traffic studies and proposed road network for Berrimah North have sufficient capacity to accommodate the additional density proposed.

- j) Rezoning the site to a blanket MD zoning assumes that the entire site is suitable for this use, when it has been clearly highlighted through the Area Plan and supporting studies that constraints exist. Any rezoning of the site should be consistent with the Berrimah North Planning Principles and Area Plan, providing multiple zones across the site.

In considering this application, the Development Consent Authority is requested to take into account any implications of the *Disability Discrimination Act* (Cth) or the *Anti-Discrimination Act* (NT) with regard to access for the disabled.

If you require any further discussion in relation to this application please feel free to contact me on 8930 0528.

Yours faithfully

CINDY ROBSON
STRATEGIC TOWN PLANNER