



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 170 – WEDNESDAY 10 APRIL 2013

**CROWNE PLAZA ALICE SPRINGS
BARRETT DRIVE
ALICE SPRINGS**

MEMBERS PRESENT: Peter McQueen (Chairman), David Koch and John McBride

APOLOGIES: Geoff Booth and Brendan Heenan

OFFICERS PRESENT: Ben Taylor, Mal MacDonald, Fraser Cormack and Kirra Morgan

COUNCIL REPRESENTATIVE : Not present

Meeting opened at 9:45 am and closed at 10.45 am

THE MINUTES 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 TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

**ITEM 1 DEVELOPMENT – FUEL DEPOT ADDITION AND ALTERATIONS TO
EXISTING GENERAL INDUSTRY
LOT 10040, 12 DALGETY ROAD, SUBURB OF BRAITLING, TOWN OF ALICE
SPRINGS
MASTERPLAN NT**

Brad Cunnington attended the meeting.

RESOLVED That the Development Consent Authority vary the requirements of Clause 6.6
0028/13 (Loading Bays) of the NT Planning Scheme, and pursuant to section 53(b) of the
Planning Act, alters the proposed development and consents to the proposed
development as altered to develop Lot 10040 (12) Dalgety Road, Suburb of
Braitling, Town of Alice Springs for the purpose of a fuel depot addition and
alterations to existing general industry subject to the following conditions:

CONDITIONS PRECEDENT

Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with plans submitted with the application but modified to show:

- (a) two additional car parking spaces adjacent to the southern side of the existing carport

CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. Stormwater (associated with works approved by this permit) is to be collected and contained within the site or discharged into the drainage network to the technical standards of and at no cost to Alice Springs Town Council to the satisfaction of the consent authority.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time
4. 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.

5. 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.
6. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors and clients.
7. Before the use or occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
9. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Alice Springs Town Council, to the satisfaction of the consent authority.
10. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Alice Springs Town Council drains or to any watercourse.
11. All proposed works impacting on Dalgety Road are to be designed, supervised and certified in accordance with the standards and specifications of the Alice Springs Town Council. Drawings must be submitted to the Council for approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".

NOTES

1. This development permit does not grant building approval for the proposed works. You are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing works.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentsouth@powerwater.com.au) and Power Network Engineering Section (powerconnections@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.
3. Any floodlighting or security lighting provided on site should be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Dalgety Road traffic.
4. Professional advice regarding implementation of soil erosion control and dust control measures that are to be employed throughout the construction phase of the development is available from Department of Land Resource

Management.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The proposed development does not conflict with the objectives and performance criteria of the NT Planning Scheme and will not prejudice the ongoing use of the land in accordance with the objectives of Zone GI (General Industry).
2. A variation to Clause 6.6 (Loading Bays) is granted to allow a waiver of the loading bay requirements. The size of the site is considered adequate to enable the loading and unloading of large freight items.
3. Pursuant to section 51(n) of the *Planning Act*, the consent authority must take into consideration the potential impact on existing and future amenity of the area in which the land is situated. The fuel depot is an addition to the existing transport terminal and the approved land use is consistent with heavy transport use / industry in the surrounding area. The location of the site is approximately 200m from the Stuart Highway and 250m from the nearest residential area opposite the entrance to Dalgety Road. With the exception of car parking and loading bay requirements, the development is compliant with the controls contained in the NT Planning Scheme.
4. The application was publicly exhibited in accordance with the requirements of the *Planning Act* and Planning Regulations. No public submissions were received.

ACTION:

Notice of Consent and Development Permit

ITEM 2

DEVELOPMENT – TELECOMMUNICATIONS FACILITY COMPRISING A 30M HIGH MONOPOLE AND ANTENNAS, EQUIPMENT SHELTER AND FENCING LOT 8773, 26 DIARAMA CLOSE, SUBURB OF ARALUEN, TOWN OF ALICE SPRINGS TELSTRA CORPORATION LIMITED

Mark Baade (on behalf of the applicant), Paul Glynn, Fran Neylon, Pat McCrossin and Joel Olzomer (submitters) attended the meeting.

In response to the Chairman's query to Joel Olzomer as to whether he would like to table the notes which he had read from at the hearing, Mr Olzomer advised that he would forward a copy of the notes to DAS once he had tidied them up. DAS tabled a submission from Christopher Hatzimihail in his absence.

RESOLVED 0029/13

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defers consideration of the application to develop Lot 8773 (26)

Diarama Close, Suburb of Araluen, Town of Alice Springs for the purpose of a telecommunications facility comprising a 30 metre tall monopole antennae, and an equipment shelter to provide the applicant with the opportunity to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- (a) Additional documentation:
 - i. Demonstrating, as required by Clause 13.5.5(b) of the Northern Territory Planning Scheme (the Planning Scheme) that a detailed feasibility assessment of at least three sites for the establishment of the facility has been undertaken; and
 - ii. explaining the rationale for choosing the subject site over the others that were considered;

OR

- (b) Additional documentation clarifying the reasoning supporting their apparent conclusion that the response provided in the application in relation to Clause 13.5.5(b) of the Planning Scheme in conjunction with Mark Baade's verbal representations relating to other sites considered (including two alternative sites to the rear of Lot 8773 and another site near the 'Scouts Hall' on Lot 6398), satisfactorily addresses Clause 13.5.5(b).

AND

- (c) Additional documentation clarifying the applicant's reasons for their apparent conclusion that the Development Consent Authority may not reasonably require additional consultation in relation to the subject application, despite the stated requirement for such consultation under Clause 13.5.5(c) of the Planning Scheme.

REASONS FOR THE DECISION

The Development Consent Authority (the consent authority), noting:

1. that the application was publicly exhibited in accordance with Part 5, Division 2 of the *Planning Act* and the Planning Regulations, providing the public with an opportunity to make submissions and representations in relation to the proposal;
2. that fourteen written public submissions were received (including one petition with 45 signatures) in relation to the application during the public exhibition period and that the submissions included objections to the proposal and a range of concerns, including the adequacy of the public consultation process;
3. that the local authority (Alice Springs Town Council) was notified of the application in accordance with Section 48 of the *Planning Act*;
4. that the application has been referred to relevant service authorities and no requirements or objections have been identified by those agencies (not including the Alice Springs Town Council) that would militate against approval of the application subject to appropriate development conditions;
5. that the Alice Springs Town Council, in its capacity as a service authority objected in principal to the proposal, but did not substantiate any grounds

- for the objection or identify any requirements in relation to servicing matters;
6. a written response provided by the applicant to issues raised in public submissions, a local authority submission and service authority submissions;
 7. a verbal submission by Joel Olzomer, Paul Glynn, Fran Neylon, Pat McCrossin and an additional written submission by Christopher Hatzimihail at the public hearing of the application on 10 April 2013;
 8. that the Alice Springs Town Council made a submission under section 49 of the *Planning Act*, requesting an opportunity to make a representation at the hearing of the application and that no such representation was made at the hearing which was held on 10 April 2013;
 9. Mr Baade's verbal representations at the public hearing of the application on 10 April 2013 (on behalf of the applicant), including responses to issues raised by submitters and in the report to the consent authority;
 10. Mr Baade's recommendation to the consent authority to have regard to a Planning Appeals Tribunal finding relating to a telecommunications facility that was approved for a site in Grant Road, Alice Springs;
 11. that it had considered aspects of the Tribunal's findings in relation to a previous application relating to a telecommunications facility that was approved for a site in Grant Road, Alice Springs;
 12. that subclause 5(b) and 5(c) of Clause 13.5 (Telecommunication Facilities) of the Northern Territory Planning Scheme require a development application to demonstrate:
 - "that a detailed feasibility assessment of at least three sites for the establishment of the facility has been undertaken and the rationale for the preferred site"; and
 - "that a community consultation plan consistent with the relevant parts of section 6.2 to 6.7 of the Communications Alliance Industry Code for Mobile Phone Base Station Deployment (C564:2011) has been prepared, implemented and complied with for the site";
 13. that the requirement for consultation under Clause 13.5.5(c) anticipates such consultation being effected prior to lodgement of an application;
 14. that the applicant, through the application and subsequent written and verbal submissions by Mr Baade, has provided some clarification in relation to the feasibility assessment and rationale for choosing the 'preferred site', but is not considered to have demonstrated a detailed feasibility assessment of at least three sites, as required by Clause 13.5.5(b) of the Planning Scheme;
 15. that the applicant appears to conclude that the consent authority may not reasonably require additional consultation as required by Clause 13.5.5(c) of the Northern Territory Planning Scheme, despite the stated requirement for such consultation under Clause 13.5.5(c);
 16. Mr Baade's observation at the hearing of the application on 10 April 2013 that the application of Clause 13.5.5(c) of the Planning Scheme may be discriminatory and would place considerable additional burden on applicants for telecommunications facilities;
 17. that the use of parts of Communications Alliance Industry Code for Mobile Phone Base Station Deployment (C564:2011) for the purpose of guiding a consultation process significantly exceeds the consultation requirements for other development applications under section 46 of the Planning Act as set out under Part 5, Division 2 of the Act; and
 18. that it considered the application to have merit;

decided that it was appropriate to defer the application to provide the applicant with an opportunity to consult the Department of Lands, Planning and the Environment in relation to interpretation of Clause 13.5.5(b) and Clause 13.5.5(c) of the Planning Scheme, and to demonstrate either:

- (a) how the requirements of Clause 13.5.5(b) and Clause 13.5.5(c) of the Planning Scheme have been satisfied; or
- (b) why they consider that it is not incumbent on the applicant to comply with the requirements;

with a view to determining what, if any, additional consultation is necessary in relation to the application.

ACTION: Notify applicant & submitters of deferral

**ITEM 3 DEVELOPMENT – TELECOMMUNICATIONS FACILITY COMPRISING A
30M HIGH MONOPOLE AND ANTENNAE, EQUIPMENT SHELTER AND
FENCING
LOTS 2681 & 5137, 72 & 74 LARAPINTA DRIVE, SUBURB OF ARALUEN,
TOWN OF ALICE SPRINGS
TELSTRA CORPORATION LIMITED**

Mark Baade (on behalf of the applicant) and Max O’Callaghan (submitter) attended the meeting.

**RESOLVED
0030/13**

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defers consideration of the application to develop Lot 2681 (72) and Lot 5137 (74), Larapinta Drive, Suburb of Araluen, Town of Alice Springs for the purpose of a telecommunications facility comprising a 30 metre tall monopole and antennae, equipment shelter and fencing to provide the applicant with the opportunity to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- (d) Additional documentation:
 - iii. Demonstrating, as required by Clause 13.5.5(b) of the Northern Territory Planning Scheme (the Planning Scheme) that a detailed feasibility assessment of at least three sites for the establishment of the facility has been undertaken; and
 - iv. explaining the rationale for choosing the subject site over the others that were considered;

OR

- (e) Additional documentation clarifying the reasoning supporting their apparent conclusion that the response provided in the application in relation to Clause 13.5.5(b) of the Planning Scheme in conjunction with Mark Baade’s verbal representations relating to other sites considered (including 32 Wilkinson Street, 33 Wilkinson Street, 37 Wilkinson Street and the ‘Aviation Museum’ in Memorial Avenue), satisfactorily addresses Clause 13.5.5(b).

AND

- (f) Additional documentation clarifying the applicant's reasons for their apparent conclusion that the Development Consent Authority may not reasonably require additional consultation in relation to the subject application, despite the stated requirement for such consultation under Clause 13.5.5(c) of the Planning Scheme.

REASONS FOR THE DECISION

The Development Consent Authority (the consent authority), noting:

1. the development application (the application) as altered to include minor alterations to the proposed development plans and details provided in relation to the proposed equipment shelter;
2. that the application was publicly exhibited in accordance with Part 5, Division 2 of the *Planning Act* and the Planning Regulations, providing the public with an opportunity to make submissions and representations in relation to the proposal;
3. that three written public submissions were received in relation to the application during the public exhibition period and that the submissions included objections to the proposal and a range of concerns, including a reference in one to the perceived inadequacy of the notification process;
4. that the local authority (Alice Springs Town Council) was notified of the application in accordance with Section 48 of the *Planning Act*;
5. that the application has been referred to relevant service authorities and no requirements or objections have been identified by those agencies (not including the Alice Springs Town Council) that would militate against approval of the application subject to appropriate development conditions;
6. that the Alice Springs Town Council, in its capacity as a service authority objected in principal to the proposal, but did not substantiate any grounds for the objection or identify any requirements in relation to servicing matters;
7. a written response provided by the applicant to issues raised in public submissions, a local authority submission and service authority submissions;
8. a verbal submission by Max O'Callaghan, at the public hearing of the application on 10 April 2013;
9. that the Alice Springs Town Council made a submission under section 49 of the *Planning Act*, requesting an opportunity to make a representation at the hearing of the application and that no such representation was made at the hearing which was held on 10 April 2013;
10. Mr Baade's verbal representations at the public hearing of the application on 10 April 2013 (on behalf of the applicant), including responses to issues raised by submitters and in the report to the consent authority;
11. Mr Baade's recommendation to the consent authority to have regard to a Planning Appeals Tribunal finding relating to a telecommunications facility that was approved for a site in Grant Road, Alice Springs;
12. that it had considered aspects of the Tribunal's findings in relation to a previous application relating to a telecommunications facility that was approved for a site in Grant Road, Alice Springs;
13. that subclause 5(b) and 5(c) of Clause 13.5 (Telecommunication Facilities) of the Northern Territory Planning Scheme require a development application to demonstrate:

- “that a detailed feasibility assessment of at least three sites for the establishment of the facility has been undertaken and the rationale for the preferred site”; and
 - “that a community consultation plan consistent with the relevant parts of section 6.2 to 6.7 of the Communications Alliance Industry Code for Mobile Phone Base Station Deployment (C564:2011) has been prepared, implemented and complied with for the site”;
14. that the requirement for consultation under Clause 13.5.5(c) anticipates such consultation being effected prior to lodgement of an application;
 15. that the applicant, through the application and subsequent written and verbal submissions by Mr Baade, has provided some clarification in relation to the feasibility assessment and rationale for choosing the ‘preferred site’, but is not considered to have demonstrated a detailed feasibility assessment of at least three sites, as required by Clause 13.5.5(b) of the Planning Scheme;
 16. that the applicant appears to conclude that the consent authority may not reasonably require additional consultation as required by Clause 13.5.5(c) of the Northern Territory Planning Scheme, despite the stated requirement for such consultation under Clause 13.5.5(c);
 17. Mr Baade’s observation at the hearing of the application on 10 April 2013 that the application of Clause 13.5.5(c) of the Planning Scheme may be discriminatory and would place a considerable additional burden on applicants for telecommunications facilities;
 18. that the use of parts of Communications Alliance Industry Code for Mobile Phone Base Station Deployment (C564:2011) for the purpose of guiding a consultation process significantly exceeds the consultation requirements for other development applications under section 46 of the Planning Act as set out under Part 5, Division 2 of the Act; and
 19. that it considered the application, as altered, to have merit;

decided that it was appropriate to defer the application to provide the applicant with an opportunity to consult the Department of Lands, Planning and the Environment in relation to interpretation of Clause 13.5.5(b) and Clause 13.5.5(c) of the Planning Scheme, and to demonstrate either:

- (c) how the requirements of Clause 13.5.5(b) and Clause 13.5.5(c) of the Planning Scheme have been satisfied; or
- (d) why they consider that it is not incumbent on the applicant to comply with the requirements;

with a view to determining what, if any, additional consultation is necessary in relation to the application.

ACTION: Notify applicant & submitters of deferral

ITEM 4

**RECONSIDERATION - VARIATION TO DEVELOPMENT PERMIT DP09/0101–
CHANGES TO THE SITE, FLOOR LAYOUT AND ELEVATION DRAWINGS OF
A MULTIPLE DWELLING DEVELOPMENT**

**LOT 10130, 6 STEPHENS ROAD, SUBURB OF MOUNT JOHNS, TOWN OF
ALICE SPRINGS
PO & ML SITZLER NOMINEES PTY LTD**

Sue Dugdale (on behalf of the applicant) attended the meeting.

**RESOLVED
0031/13**

condition precedent for amended drawings as approved by item 5

That, pursuant to section 57(3) of the *Planning Act*, the Development Consent Authority consent to the application to vary conditions 1 and 15 of DP09/0101 for the purpose of staging the development and to allow various changes to the site, floor layout and elevation drawings of a multiple dwelling development including: amended car parking layout, communal open space areas, deletion of stairs, cafe and reception area, retain laundry (delete proposed gym) and construction of new storage shed.

(REVISED) CONDITIONS OF APPROVAL

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. The development must proceed in the order of stages as shown on the endorsed plans unless otherwise agreed in writing by the consent authority.
3. 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.
4. Before the use or occupation of each stage of the development starts, the areas set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways;to the satisfaction of the consent authority.
Car spaces, access lanes and driveways must be kept available for these purposes at all times.
5. Before the use/occupation of the development starts the landscaping works shown on the endorsed plans for each stage must be carried out and completed to the satisfaction of the consent authority.
6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
7. The owner of the land must enter into agreements with the relevant

authorities for the provision of water supply, drainage, sewerage and electricity facilities to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.

8. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Department of Transport, to the satisfaction of the consent authority.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Department of Transport and/or Alice Springs Town Council to the satisfaction of the consent authority.
10. All air conditioning condensers are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
11. In the event that the subdivision approved by Development Permit DP09/0118 does not proceed, all areas of the site that are not occupied by buildings, landscaping, car parking or driveways shall be maintained in a condition so they will not cause detriment to the amenity of the locality by reason of appearance or the emission of dust.

NOTES:

1. A "Permit to Work Within a Road Reserve" may be required from the Department of Transport before commencement of any work within the road reserve.
2. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the Aboriginal Sacred Sites Act. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
3. This development permit does not grant "building approval" for the proposed structure. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.
4. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentsouth@powerwater.com.au) and Power Network Engineering Section (powerconnections@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.

5. The Environment Protection Agency of the Department of Lands, Planning and the Environment advises that construction work should be conducted in accordance with the Agency's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

ACTION: Variation of Conditions Permit

**ITEM 5 VARIATION TO DEVELOPMENT PERMIT DP09/0118 – ADJUSTMENTS TO
SUBDIVISION DIMENSIONS
LOT 10130, 6 STEPHENS ROAD, SUBURB OF MOUNT JOHNS, TOWN OF
ALICE SPRINGS
PO & ML SITZLER NOMINEES PTY LTD**

Sue Dugdale (on behalf of the applicant) attended the meeting.

RESOLVED That, pursuant to section 57(3) of the *Planning Act*, the Development Consent
0032/13 Authority consent to the application to vary condition 1 of Development Permit
DP09/0118 for the purpose of adjustments to subdivision boundaries.

ACTION: Variation of Conditions Permit

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



PETER McQUEEN
Chairman

18 / 3 / 2013