



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 250 – WEDNESDAY 11 DECEMBER 2019

**DOUBLETREE BY HILTON
SPINIFEX ROOM
82 BARRETT DRIVE
ALICE SPRINGS**

MEMBERS PRESENT: Suzanne Philip (Chair), Marli Banks, Jamie de Brenni,
Chris Neck

APOLOGIES: Deepika Mathur

OFFICERS PRESENT: Peter Somerville, Fraser Cormack, Jennie Ryan

COUNCIL REPRESENTATIVE: Takudzwa Charlie

Meeting opened at 10:20 am and closed at 1:00 pm

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 VERANDAH ADDITION TO AN EXISTING MULTIPLE DWELLING WITH A REDUCED PRIMARY STREET SETBACK (RETROSPECTIVE APPROVAL)
PA2019/0352 LOT 516, UNIT 1, 20 CHEWINGS STREET, SUBURB OF EAST SIDE
APPLICANT JOANNE RHODES

Ms Marli Banks, a member of the Development Consent Authority declared a potential perceived conflict of interest pursuant to section 97(1) of the *Planning Act 1999*, and absented herself from the meeting for the hearing and deliberation of this item.

Joanne Rhodes and Brendan Simmonds attended the meeting and spoke further to the application.

RESOLVED 0129/19 That the Development Consent Authority varies the requirements of clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Unit 1, Lot 516 (20A) Chewings Street, Suburb of East Side, Town of Alice Springs, for the purpose of a shade structure/verandah addition with a reduced primary street setback (retrospective approval), subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans, 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 in Adobe PDF format, drawn to scale with dimensions and generally consistent with the plans publicly exhibited but further modified to include:
 - a) screening; and/or
 - b) other suitable architectural embellishment selected to further minimise the potential for any perceived adverse impacts on the streetscape or locality.

Amended plans and documentation prepared in response to the conditions precedent may be submitted to the Development Consent Authority C/- Development Assessment Services, Department of Infrastructure, Planning and Logistics, C/- Alice Springs Branch via email to das.ntg@nt.gov.au.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. A Compliance Certificate under the *Swimming Pool Safety Act 2004* issued by the Swimming Pool Safety Authority is required for the swimming pool/s prior to the commencement of the use/development to the satisfaction of the consent authority

4. Stormwater 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.

NOTE

This development permit does not grant "building approval" for the proposed new development works. You are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority (the consent authority) must take into account any planning scheme that applies to the land to which the application relates. The site is located within the locality of East Side and the shade structure is of a scale and form not considered to be out of character with the streetscape or locality or to unduly impact on the streetscape. With the exception of a required building setback variation, the proposed development is assessed as compliant with all other aspects of the NT Planning Scheme.

A variation is granted to the primary street boundary setback requirements of clause 7.3 (Building Setback of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, subject to minor a screening additions or architectural embellishment designed to better integrate the structure into the streetscape, as:

- a) The footprint of the shade structure is relatively small (approximately 12m²) and its height is relatively low (approximately 2.3m above ground level adjacent to the front boundary fence).
- b) Existing boundary and on-site fencing and plants on Lot 516 and in the adjacent road reserve substantially screen the structure from the street.
- c) Notwithstanding that the structure is considered to have negligible visual bulk, part is approximately 0.5m higher than the fence and raising part the fence with either solid or partial screening and/or other suitable architectural embellishment may be expected to further minimise the potential for any perceived adverse impacts on the streetscape or locality.
- d) The structure is not considered to be out of character with the established streetscape or the amenity of the East Side locality or considered to have any undue impact on the streetscape or any other property.
- e) The development is not expected to frustrate the purpose of clause 7.3, subject to suitable refinement of finishes and/or screening.

In accordance with clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the above circumstances are considered, cumulatively to constitute special circumstances that justify the granting of a variation to clause 7.3.

2. Pursuant to section 51(e) of the *Planning Act 1999*, in considering a development application, of the consent authority must take into account any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application. One public submission was received. The consent authority has decided to require minor revisions to the screening and/or design of the development and the required revisions are expected to assist in addressing the submitter's concerns at perceived visual impact of the structure on the streetscape and the amenity of

the locality. No local authority submissions were received under section 49 of the *Planning Act 1999* with respect to the proposal. A third party right of appeal applies and the submitter will have an opportunity to apply for a review of the decision.

3. Pursuant to section 51(m) of the *Planning Act 1999*, in considering a development application, of the consent authority must take into account 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. A standard condition relating to the stormwater drainage is expected to assist in ensuring orderly management of stormwater.
4. Pursuant to section 51(n) of the *Planning Act 1999*, in considering a development application, of the consent authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated. The structure appears to offer the occupants an improved level of amenity with limited off-site impact. The consent authority envisages that with limited additional screening and or architectural embellishment, the structure could be further integrated in to the streetscape.

ACTION: DAS to prepare a Notice of Determination

ITEM 2 SUBDIVISION TO CREATE TWO LOTS
PA2019/0431 LOT 900, 15 WINNECKE AVENUE, SUBURB OF EAST SIDE
APPLICANT HANNAH MUIR & JOSHUA NORTH

Hannah Muir and Joshua North attended the meeting and spoke further to the application.

Mr Takudzwa spoke to the application on behalf of the Alice Springs Town Council and advised that the Council supported the construction of a kerb crossover and site access to the Winnecke Avenue boundary of the site, immediately to the southern side of the existing swimming pool.

RESOLVED That, the Development Consent Authority varies the requirements of Clause
0130/19 11.1.1 (Minimum Lot Sizes and Requirements) and Clause 11.2.1.2(d) (Site
Characteristics in Residential Subdivision) of the NT Planning Scheme, and
pursuant to section 53(b) of the *Planning Act 1999*, alters the proposed
subdivision and consents to the proposed subdivision as altered to develop Lot
900 (15) Winnecke Avenue, Suburb of East Side, Town of Alice Springs, to
create two lots, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works:
 - a) 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 in Adobe PDF format, drawn to scale with dimensions and generally consistent with the plans publicly exhibited but amended to:
 - (i) identify the lot size for both lots, such that both lots exceed 760m²; and collectively the sum area of the lots is 1530m²;
 - (ii) show the amended roof line for the existing dwelling so that the roof does not traverse the boundary between the lots;

- b) A schematic plan demonstrating the on-site collection of stormwater and its discharge into the Alice Springs Town Council stormwater drainage system must be submitted to and approved by the Alice Springs Town Council, to the satisfaction of the consent authority. (The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection);
- c) A schematic plan demonstrating kerb crossover and site access works to be undertaken as part of the subdivision must be submitted to and approved by the Alice Springs Town Council, to the satisfaction of the consent authority, such that each lot will have an approved kerb crossover and site access; and
- d) A updated statement from a registered building certifier clearly addressing all requirements of section 46(3)(k) of the *Planning Act 1999* is required. The statement must reference and detail any modifications to the existing dwelling proposed as part of (or prior to) the subdivision, including the removal of a lean-to structure from the eastern end of the dwelling. Endorsement of subdivision plans will be subject to the consent authority being satisfied that the subdivision is appropriate, having regard to the requirements of section 51(q) of the *Planning Act 1999*.

Amended plans and documentation prepared in response to the conditions precedent may be submitted to the Development Consent Authority C/- Development Assessment Services, Department of Infrastructure, Planning and Logistics, C/- Alice Springs Branch via email to das.ntg@nt.gov.au.

GENERAL CONDITIONS

- 2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
- 3. Stormwater 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.
- 4. The kerb crossovers and driveways to the each lot approved by this permit are to meet the technical standards of Alice Springs Town Council 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 streets. This condition is to the satisfaction of the consent authority on technical advice from the Alice Springs Town Council.
- 6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities and telecommunication networks to each lot shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.
- 7. 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.

8. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.
9. Prior to the issue of a Certificate of Compliance under section 62 of the *Planning Act 1999* and pursuant to section 34 of the *Land Title Act 2000*, a Caution Notice shall be lodged with the Registrar General on the parent parcel to include the following advice on the Land Title. The Caution Notice is to state that: "This allotment is subject to inundation in a 1 per cent annual exceedance probability flood event (a defined flood event)". Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.
10. Solid boundary fencing to a minimum height of 1.8m high (above finished ground level) must be provided along the boundary between the approved lots, except where such fencing will interfere with sight lines required under Condition 5 of this permit.
11. The existing dwelling must be modified, including through the removal of the lean-to/shade structure from the eastern end of the dwelling in accordance with the plans approved and confirmation is required from a registered building certifier of the suitability of the modification/s to ensure that the subdivision does not result in non-compliance with any relevant building legislation.
12. Dust control measures must be employed throughout the construction stage of the development to the requirements of the Northern Territory Environment Protection Authority, to the satisfaction of the consent authority.

NOTES

1. A "Permit to Work Within a Road Reserve" may be required from the Alice Springs Town Council before commencement of any work within the road reserves, which would include creation of any driveway crossover connecting to Council's road network.
2. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5362 (surveylandrecords@nt.gov.au).
3. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection Authority'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.
4. If you choose NBN to service your development, you will need to enter into a development agreement with NBN. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered NBN will be in contact to discuss the specific requirements for the development. NBN requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to NBN guidelines found at

5. For the purposes of best practice land management and environmental protection it is recommended that a Type 1 Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Environment and Natural Resources ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, the Development Consent Authority (the consent authority) must take into consideration the planning scheme that applies to the land to which the application relates. Subject to compliance with conditions of approval, the proposal is generally compliant with the relevant requirements of the NT Planning Scheme in relation to subdivisions of SD (Single Dwelling Residential) zoned land.

The consent authority grants variations to:

- a) Clause 11.1.1 (Minimum Lot Sizes and Requirements) of the NT Planning Scheme to allow the creation of lots smaller than 800m², but no smaller than 760m², as:
 - (i) The proposed subdivision is not expected lots to frustrate the purpose of clause 11.1.1, which is to create lots of a size capable of accommodating potential future uses. The location of the existing dwelling towards the western side of the site allows the creation of a vacant lot on the eastern side with sufficient dimensions to comply with minimum building envelope dimensions and accommodate a single dwelling and ancillary structures, subject to removal of a lean-to/shade structure from the eastern end of the existing dwelling; and
 - (ii) Service authority comments relating to utilities, access and drainage suggest that the subdivision may be serviced subject to compliance with relevant standards and requirements; and
 - (iii) The conditions of approval may be expected to ensure that the lots are properly drained and accessible; and
- b) Notwithstanding that clause 11.2.1.2(d) (Site Characteristics in Residential Subdivision) discourages the subdivision of land affected by a 1 percent annual exceedance probability (1% AEP) flood event, a variation to clause 11.2.1.2(d) is granted in this instance, subject to the registration of a caution notice on the title of Lot 900 identifying that it is located within a defined flood area and subject to inundation in a 1% AEP flood event, as:
 - (i) The site is on the outer fringe of the defined flood area approximately 600m from the floodway. The vacant eastern lot will be largely outside of the defined flood area with only a small part to its western side subject to inundation to a maximum depth of 0.15m in a defined flood event.
 - (ii) In accordance with clause 6.14 of the Planning Scheme, the construction of a dwelling on the eastern lot will need to include floor levels to all habitable rooms a minimum of 300mm above the flood level as it relates to the site if any part of the dwelling is located within the defined flood area.
 - (iii) Registration of a caution notice on the title of the land identifying that it is located within a defined flood area will ensure that the owners and any

future owners are aware of its flood liability.

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the above circumstances are considered, cumulatively to constitute special circumstances that justify the granting of variations to clause 11.1.1 and clause 11.2.1.2(d) respectively.

2. Pursuant to section 51(e) of the *Planning Act 1999*, in considering a development application, of the consent authority must take into account any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application. No public submissions were received. The Alice Springs Town Council advised that its letter should be construed as a local authority, however, the letter included comment only in relation to technical matters relating to its role as a service authority.
3. Pursuant to section 51(j) of the *Planning Act 1999*, in considering a development application, of the consent authority must take into account 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 land is generally flat with part being located within a defined flood area and liable to limited shallow inundation in a 1 percent annual exceedance probability 1% AEP flood event. The Department of Environment and Natural Resources has not identified any concerns with the proposal.
4. Pursuant to section 51(m) of the *Planning Act 1999*, in considering a development application, of the consent authority must take into account 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 conditions and advisory notes of approval are intended to assist in ensuring service authority interests are duly recognised in terms of works within and affecting the road reserves, stormwater drainage, electricity, sewerage, water and telecommunications services.
5. Pursuant to section 51(n) of the *Planning Act 1999*, in considering a development application, of the consent authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated. The land is currently developed with a single dwelling and an ancillary shed. An independent unit addition could be developed without subdivision. The proposed subdivision would create the potential for more intensive development (e.g. a single dwelling and independent unit and ancillary structures on each lot). Such development has the potential to be perceived as having a greater impact on amenity than a single dwelling and ancillary development, however, it will depend on decisions of the future owners of the lots as to how they are developed.
6. Pursuant to section 51(q) of the *Planning Act 1999*, in considering an application for a proposed subdivision of land on which a building is, or will be, situated the consent authority must take into account whether the building complies, or will comply, with any requirements prescribed by regulation in relation to the building (including, for example, requirements about the structural integrity and fire safety of the building). Part of an existing building traverses the proposed lot boundary and the conditions of approval are expected to assist in ensuring the subdivision does not result in non-compliance with building legislation and /or requirements.

ACTION: DAS to prepare a Notice of Consent and Development Permit

ITEM 3 **4 X 4 BEDROOM MULTIPLE DWELLINGS IN 3 X 2 STOREY BUILDINGS**
PA2019/0436 **LOT 1775, 3 HAWKINS COURT, SUBURB OF GILLEN**
APPLICANT **GLENYCE MCGAUCHIE**

Matt Twohig (Design Ink) attended the meeting on behalf of the applicant and spoke further to the application.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3.1
0131/19 (Additional Setback Requirements for Residential Buildings Longer Than 18 metres
and for Residential Buildings Over 4 Storeys in Height) and Clause 7.5 (Private
Open Space) of the NT Planning Scheme, and pursuant to section 53(b) of the
Planning Act 1999, alter the proposed development and consent to the proposed
development as altered to develop Lot 1775, 3 Hawkins Court, Suburb of Gillen,
Town of Alice Springs for the purpose of 4 x 4 bedroom multiple dwellings in 3 x 2
storey buildings, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the site plan (A01 dated 26/10/2019 prepared by Design Ink) and must be updated to include:
 - (a) A minimum of 3 formalised car parking spaces for each dwelling in a functional layout;
 - (b) Planting of suitable tree species (minimum of 4-6m high when mature) along the western (side) boundaries of Lot 1774;
 - (c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant;
 - (d) Surface treatments to ground level private open space areas; and
 - (e) Irrigation arrangements to planted areas.All species selected must be to the satisfaction of the consent authority.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, storm water drainage, sewerage, electricity and telecommunication services to the development shown on the endorsed plans in accordance with the authorities requirements and relevant legislation at the time.
4. Stormwater 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 the Alice Springs Town Council to the satisfaction of the consent authority.
5. Any alterations to existing arrangements to the kerb crossover/s and driveway/s (works within the Hawkins Court road reserve) to the development approved by this permit are to meet the technical standards of the Alice Springs Town Council, to the satisfaction of the consent authority.

6. 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. This condition is to the satisfaction of the consent authority, on advice from the Alice Springs Town Council.
7. Storage for waste disposal bins is to be provided to the requirements of the Alice Springs Town Council to the satisfaction of the consent authority.
8. Before the use/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.
9. 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.
10. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
11. Before the use/occupation of the approved 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 (or permeably paved);
 - d) drained; and
 - e) line marked or delineated to indicate each car parking space (where applicable);to the satisfaction of the consent authority.

Car spaces and driveways must be kept available for these purposes at all times and maintained to the satisfaction of the consent authority.

12. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
13. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of at ground level in a controlled manner to the satisfaction of the consent authority.
14. 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.
15. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
16. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the meters within the development in

accordance with the allocation. A Certificate of Compliance (section 65 of the *Planning Act 1999*) will not be able to be granted until such time as addressing is obtained.”

17. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both waterdevelopment@powerwater.com.au and powerconnections@powerwater.com.au.
18. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentsouth@powerwater.com.au and powerconnections@powerwater.com.au.
19. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentsouth@powerwater.com.au and powerconnections@powerwater.com.au.

NOTES

1. This development permit does not grant "building approval" for the proposed demolition of existing buildings, proposed new development works. 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.
2. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection Authority'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.
3. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@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.

4. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
5. If you choose NBN to service your development, you will need to enter into a development agreement with NBN. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered NBN will be in contact to discuss the specific requirements for the development. NBN requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to NBN guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
6. This permit will expire if one of the following circumstances applies:
 - (a) the development is not started within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.The consent authority may extend the periods referred to if a request is made in writing before the permit expires.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account any planning scheme that applies to the land to which the application relates. Subject to the receipt of amended plans and compliance with conditions of approval, the proposed use and development as presented in the application is considered to be generally consistent with the following clauses and objectives of the NT Planning Scheme:
 - (a) Planning Principles relevant to residential development set out in Clause 4.1 and Clause 4.3 of the NT Planning Scheme;
 - (b) Strategic guidance for residential development set out in the Alice Springs Regional Land Use Plan (a policy document listed in Clause 2.7 of the NT Planning Scheme); and
 - (c) Zone MD (Multiple Dwelling), the primary purpose of Zone MD is to provide for a range of housing options to a maximum height of two storeys above ground level. The proposed multiple dwellings are compatible with other residential developments within the area. The design and site layout is of a scale and character that complies with the majority of performance criteria contained in Part 4 of the Scheme and is considered compatible with other established uses and development nearby.
2. A variation is granted to Clause 7.3.1 (Additional Setback Requirements for Residential Buildings Longer Than 18 metres) of the Northern Territory Planning Scheme for the reduced building setback to the eastern side boundary as:
 - All other building setbacks comply with the Scheme requirements;
 - The reduced setback will maintain the minimum required driveway width; and
 - The use of 'high' windows and 'obscure/frosted' glazing for all upper storey windows will help reduce any perceived adverse impact of overlooking due to the proximity of the building to the boundary.

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the aforementioned design features and site conditions are considered to be sufficient special circumstances and justify the granting of a variation to Clause 7.3.1 of the Scheme.

3. A variation is granted to Clause 7.5 (Private Open Space) of the Northern Territory Planning Scheme for the reduced building envelope dimensions for the private open space of Unit 4 as:
 - Units 1, 2 and 3 comply with the requirements for minimum area, dimension and “open to the sky” provisions;
 - Unit 4 retains a substantial area of private open space, while the proposed minimum dimension (between 4.15m and 4.71m – refer Figure 4) is marginally less than the required minimum dimensions;
 - As all dwellings have direct access to ground level private open space, there is no requirement for communal open space to be provided on site; and
 - Each private open space area has adequate setbacks from habitable rooms on adjoining properties.

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the aforementioned design features and site conditions are considered to be sufficient special circumstances and justify the granting of a variation to Clause 7.5 of the Scheme.

4. Under Clause 2.5.5 of the NT Planning Scheme, when consenting to a development of land, the consent authority may impose a condition requiring a higher standard of development than is set out in a provision of Parts 4 or 5 if it considers it necessary to do so. The Development Consent Authority:
 - a) Considered the proposed development design in the context of the locality, noting that:
 - (i) the purpose of Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme, is “*to ensure that sufficient off street car parking, constructed to a standard and conveniently located, is provided to service the proposed use of a site*”.
 - (ii) there is limited capacity for overflow car parking within the Hawkins Court road reserve;
 - (iii) each proposed dwelling has 4 bedrooms and there is a likelihood that the proposed development will at times generate a parking requirement greater than 2 spaces per dwelling;
 - (iv) the application includes additional informal on-site parking;
 - (v) there is demonstrably capacity for 3 formalised on-site parking spaces per dwelling; and
 - b) Decided that a requirement to provide a minimum of 3 on-site parking spaces per dwelling was appropriate in the circumstances, to ensure sufficient off-street car parking.
5. Pursuant to section 51(j) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account 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 physical characteristics of the land are considered suitable for the proposed multiple dwelling development.

The site is not within a 1% AEP Defined Flood Area. The vehicle access and car parking arrangements, site and floor layouts and other aspects of the design will fulfil the objectives of the NT Planning Scheme relevant to multiple dwelling use.

6. Pursuant to section 51(m) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account 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 Power and Water Corporation has advised that areas of the site need to be set aside for connections to and infrastructure for power, water and sewer services and works are not to encroach into easements. The conditions of approval and advisory notes are intended to ensure service authority interests are duly recognised.
7. Pursuant to section 51(n) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated. The conditions of approval and associated advisory notes are intended to ensure the existing and future amenity of the subject site and adjacent land are not adversely impacted by the proposed development. The land is zoned to accommodate the proposed development, in that the land is identified for the development of multiple dwellings (as a discretionary land use in Zone MD), and the proposal is consistent with the required dwelling density and height requirements.

ACTION: DAS to prepare a Notice of Consent and Development Permit

ITEM 4 **4 X 4 BEDROOM MULTIPLE DWELLINGS IN 2 X 2 STOREY BUILDINGS**
PA2019/0435 **LOT 423, 16 LINDSAY AVENUE, SUBURB OF EAST SIDE**
APPLICANT **GLENYCE McGAUCHIE**

Matt Twohig (Design Ink) attended the meeting on behalf of the applicant and spoke further to the application.

Suzanne Bitar (Submitter) attended the meeting and spoke further to her submission.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3
0132/19 (Building Setbacks of Residential Buildings and Ancillary Structures) and Clause
7.3.2 (Distance Between Residential Buildings on One Site) of the NT Planning
Scheme, and pursuant to section 53(b) of the *Planning Act 1999*, alter the
proposed development and consent to the proposed development as altered to
develop Lot 423, 16 Lindsay Avenue, Suburb of East Side, Town of Alice Springs
for the purpose of 4 x 4 bedroom multiple dwellings in 2 x 2 storey buildings,
subject to the following conditions:

CONDITIONS PRECEDENT

1. 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 provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- (a) A minimum of 3 formalised car parking spaces for each dwelling in a functional layout;
- (b) Fencing and access gate details to ground level private open space areas of each dwelling that comply with sub-clause 4 of Clause 7.5 (Private Open Space) of the NT Planning Scheme;
- (c) Details of lighting within common property areas responding to the objectives and guidelines contained in the Community Safety Design Guide (April 2010);
- (d) Positioning of air conditioning units above the 1 percent AEP (Annual Exceedance Probability) flood level (but below fence height and/or satisfactorily screened if above fence height); and
- (e) the locations and dimensions of proposed electricity and water meter arrangements.

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the site plan (A01 dated 29/10/2019 prepared by Design Ink) and must be updated to include:
 - (a) Any development changes made in response to Conditions Precedent 1;
 - (b) Planting of suitable tree species (minimum of 4-6m high) along the northern and southern (side) boundaries of Lot 423;
 - (c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant;
 - (d) Surface treatments to ground level private open space areas; and
 - (e) Irrigation arrangements to planted areas.

All species selected must be to the satisfaction of the consent authority.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
The finished floor levels of "habitable rooms" of the dwellings must be no lower than 577.25 metres Australian Height Datum (AHD). The developer shall demonstrate compliance with this condition by providing "as constructed" finished levels of each dwelling, confirmed by a Licensed Surveyor. This condition is to the satisfaction of the Development Consent Authority.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, storm water drainage, sewerage, electricity and telecommunication services to the development shown on the endorsed plans in accordance with the authorities requirements and relevant legislation at the time.
5. Stormwater 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 the Alice Springs Town Council to the satisfaction of the consent authority.
6. Any alterations to existing arrangements to the kerb crossover/s and driveway/s (works within the Lindsay Avenue road reserve) to the development

approved by this permit are to meet the technical standards of the Alice Springs Town Council, to the satisfaction of the consent authority.

7. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street. This condition is to the satisfaction of the consent authority, on advice from the Alice Springs Town Council.
8. Storage for waste disposal bins is to be provided to the requirements of the Alice Springs Town Council to the satisfaction of the consent authority.
9. Before the use/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.
10. 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.
11. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
12. Before the use/occupation of the approved 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 (or permeably paved); and
 - d) drained;to the satisfaction of the consent authority.

Car spaces and driveways must be kept available for these purposes at all times and maintained to the satisfaction of the consent authority.

13. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
14. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of at ground level in a controlled manner to the satisfaction of the consent authority. The air conditioning units must be mounted at a height above the current flood level.
15. 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.
16. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
17. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for street addressing from

the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the meters within the development in accordance with the allocation. A Certificate of Compliance (section 65 of the *Planning Act 1999*) will not be able to be granted until such time as addressing is obtained.”

18. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both waterdevelopment@powerwater.com.au and powerconnections@powerwater.com.au.
19. Prior to the issue of a Certificate of Compliance (section 65 of the *Planning Act 1999*) and pursuant to section 34 of the *Land Title Act 2000*, a Caution Notice shall be lodged with the Registrar General on the allotment to include the following advice on the Land Title. The Caution Notice is to state that: “This allotment is subject to inundation in a 1 per cent annual exceedance probability flood event (a defined flood event)”. Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.
20. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentsouth@powerwater.com.au and powerconnections@powerwater.com.au.
21. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentsouth@powerwater.com.au and powerconnections@powerwater.com.au.

NOTES

1. This development permit does not grant "building approval" for the proposed demolition of existing buildings and proposed new development works. 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.
2. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection Authority'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.

3. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@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.
4. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
5. Prior to applying for building approval, it is recommended that the land owner / developer considers engaging the services of a Licensed Surveyor to carry out a boundary identification survey to identify where the true boundaries of the site are in relation to existing and proposed fences and buildings on the land. This information could then be used for the purposes of section 6 of the Building Regulations 1993.
6. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
7. A "Permit to Work Within a Road Reserve" will be required from Alice Springs Town Council for works with the Lindsay Avenue road reserve, or similar from the Department of Infrastructure, Planning and Logistics in respect to Lot 8164 (Crown land), before commencement of any work within or adjacent to respective lands.
8. If you choose NBN to service your development, you will need to enter into a development agreement with NBN. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered NBN will be in contact to discuss the specific requirements for the development. NBN requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to NBN guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
9. This permit will expire if one of the following circumstances applies:
 - (c) the development is not started within two years of the date of this permit; or
 - (d) the development is not completed within four years of the date of this permit.The consent authority may extend the periods referred to if a request is made in writing before the permit expires.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into

account any planning scheme that applies to the land to which the application relates. Subject to the receipt of amended plans and compliance with conditions of approval, the proposed use and development as presented in the application is considered to be generally consistent with the following clauses and objectives of the NT Planning Scheme:

- (a) Planning Principles relevant to residential development set out in Clause 4.1 and Clause 4.3 of the NT Planning Scheme;
- (b) Strategic guidance for residential development set out in the Alice Springs Regional Land Use Plan 2016 and the NT Compact Urban Growth Policy (Policy documents listed in Clause 2.7 of the NT Planning Scheme); and
- (c) Under Zone MD (Multiple Dwelling Residential), the primary purpose is to provide for a range of housing options to a maximum height of two storeys above ground level. The proposed multiple dwellings are consistent with the primary purpose of the zone. The development complies with the majority of relevant performance criteria contained in Part 4 of the Scheme and the design and site layout is considered a suitable response to the requirements of the Scheme.

2. A variation is granted to Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme for the reduced building setback to the front boundary as:

- (a) Building 1 has a setback of 5.83m to the front boundary which is 0.17m less than the required 6m setback;
- (b) Side and rear boundary setbacks to the site are all compliant with the clause;
- (c) The reduced front setback enables greater compliance with private open space and car parking requirements
- (d) The reduced front setback will not result in any undue building massing; and
- (e) The proposed development is consistent with the form and scale of development expected in an MD (Multiple Dwelling Residential) zone.

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the aforementioned design features and site conditions are considered to be sufficient special circumstances and justify the granting of a variation to Clause 7.3 of the Scheme.

3. A variation is granted to Clause 7.3.2 (Distance Between Residential Buildings on one site) of the Northern Territory Planning Scheme for the reduced building setback between the two buildings as the reduced separation:

- (a) Is not expected to result in any building massing having an adverse effects the amenity of the development or adjoining properties;
- (b) There will be no overlooking / privacy issues between Units 1 and 2;
- (c) Should not impact on breeze penetration within Lot 423 or to buildings on adjacent properties;
- (d) Is not anticipated that there will be any overlooking issues to adjoining properties/areas or private open space due to the orientation of the buildings and setback distances to each side boundary; and
- (e) Will still provide adequate width between the buildings to enable practical access to the rear private open spaces areas of units 2 and 3.

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the aforementioned design features and site conditions are considered to be sufficient special circumstances and justify the granting of a variation to Clause 7.3.2 of the Scheme.

4. Under Clause 2.5.5 of the NT Planning Scheme, when consenting to a development of land, the consent authority may impose a condition requiring a higher standard of development than is set out in a provision of Parts 4 or 5 if it considers it necessary to do so. The Development Consent Authority:
- a) Considered the proposed development design in the context of the locality, noting that:
 - (i) the purpose of Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme, is “to ensure that sufficient offstreet car parking, constructed to a standard and conveniently located, is provided to service the proposed use of a site”.
 - (ii) while there is some capacity for overflow car parking within the locality, the provision of adequate on-site parking may be expected to limit the need for off-site parking;
 - (iii) each proposed dwelling has 4 bedrooms and there is a likelihood that the proposed development will at times generate a parking requirement greater than 2 spaces per dwelling;
 - (iv) public submissions have queried whether the proposed car parking provision for each of the 4 bedroom dwellings will be suitable to cater for the empirical demand;
 - (v) the application includes additional informal on-site parking;
 - (vi) there is demonstrably capacity for 3 formalised on-site parking spaces per dwelling; and
 - b) Decided that a requirement to provide a minimum of 3 on-site parking spaces per dwelling was appropriate in the circumstances, to ensure sufficient off street car parking.
5. Pursuant to section 51(e) of the *Planning Act 1999*, in considering a development application the consent authority is required to take into account any submissions made under section 49 of the Act and any evidence or information received under section 50 of the Act. Two public submissions were received in relation to the application. A submitter attended the hearing of the application and added to their submission. All matters raised in the submissions have been considered and the development, as approved and subject to compliance with the conditions is not expected to unduly impact on the amenity of any other property, the streetscape or the locality.
6. Pursuant to section 51(j) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account 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 physical characteristics of the land are considered suitable for the proposed multiple dwelling development.

The site is within the 1 percent AEP (Annual Exceedance Probability) Defined Flood Area, however, plans indicate the finished floor levels of the dwelling will be 300mm height above the applicable flood level for the property which is 577.25 metres Australian Height Datum.

7. Pursuant to section 51(m) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account 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

Power and Water Corporation has advised that areas of the site need to be set aside for connections to and infrastructure for power, water and sewer services and works are not to encroach into easements. The conditions of approval and advisory notes are intended to ensure service authority interests are duly recognised.

8. Pursuant to section 51(n) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated. The conditions of approval and associated advisory notes are intended to ensure the existing and future amenity of the subject site and adjacent land are not adversely impacted by the proposed development. The land is zoned to accommodate the proposed development, in that the land is identified for the development of multiple dwellings (as a discretionary land use in Zone MD), and the proposal is consistent with the minimum standards for dwelling density, height and private open space requirements.

ACTION: DAS to prepare a Notice of Consent and Development Permit

ITEM 5 **FURTHER CONSIDERATION - CONSTRUCT SERVICE STATION AND ALTERATIONS TO EXISTING RESTAURANT**
PA2019/0322 **LOT 6403, 45 STUART HWY, TOWN OF ALICE SPRINGS**
APPLICANT **ADELAIDE NOMINEES PTY LTD**

Ben Wilson (Traffic Engineer, CIRQA) attended the meeting and spoke further to the application. Kieron Barnes (Senior Associate, Ekistics Planning and Design) attended the meeting via telephone conference and tabled a response to the DCA in a presentation form and spoke further to the application.

RESOLVED That the Development Consent Authority considered that the matter remains on deferral in accordance Resolution 104/19, noting that the further information, submitted by the applicant in response to that Resolution, did not contain formal advice (approval) from the Alice Springs Town Council. The Authority further noted that the amended plans had still not achieved compliance with 8.1.4 (a) and, even if the Authority had power to vary compliance with that Clause, no special circumstances as required by Clause 2.5 for exercise of Authority's discretion had been provided to satisfy the test as outlined by Kelly J in *Phelps v Development Consent Authority* [2009] NTSC 54.

ACTION: DAS to prepare a letter to applicant

ITEM 6 **LANDSCAPE SUPPLIES (UNLISTED / UNDEFINED USE) WITH ANCILLARY OUTDOOR DISPLAY AND STORAGE AREAS**
PA2019/0444 **LOT 5776, 224 ROSS HIGHWAY, SUBURB OF ROSS, TOWN OF ALICE SPRINGS**
APPLICANT **THE TRUSTEE FOR PATRICK HOMES PTY LTD SUPERANNUATION FUND**

John Stirk (Povey Stirk), Patrick Brown (Landowner), John Brown and Phillip Brown (Business Owners) attended the meeting and spoke further to the application.

Marian and Michael Drogemuller (Submitter) attended the meeting and spoke further to their submission. Michael Drogemuller tabled 3 photos taken on the morning of the meeting.

**RESOLVED
0134/19**

That, the Development Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and Clause 7.10.4 (Independent Units) of the NT Planning Scheme, and pursuant to section 53(b) of the *Planning Act 1999*, alter the proposed development and consent to the proposed development as altered to develop Lot 5776, 224 Ross Highway, Suburb of Ross, Town of Alice Springs for the purpose of landscape supplies (unlisted / undefined use) with ancillary outdoor display and storage areas, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans, 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 provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The deletion of the independent unit (second dwelling - to be removed within 12 months of the date of the permit);
 - b) Removal of the driveway along the northern boundary (common boundary with Lot 7864) and introduction of suitable screen planting, subject to compliance with requirements for fire break and for access to the service (water pipeline) easement; and
 - c) Floor plans of all buildings on site showing the use of rooms, floor layouts and partitioning.

GENERAL CONDITIONS

2. The use and development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
3. 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 or suitable dust suppressed (and maintained);
 - (d) drained';
 - (e) line marked or otherwise suitably delineated 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.
4. 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 / customers*.
5. "No entry/no exit" signs and arrows directing the internal traffic movement on site shall be provided at completion of building to the requirements and satisfaction of the consent authority.

6. The use may operate only between the hours of 9.00am to 5.00pm Monday to Friday and 9.00am to 12.00noon on Saturday. Bulk deliveries to and from the site (including waste collection) must only be undertaken between 9.00am and 12.00noon on Monday to Friday. No unloading is to occur outside of these hours or on weekends or public holidays.
7. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the consent authority.
8. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
9. 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. This condition is to the satisfaction of the consent authority on technical advice from the Department of Infrastructure, Planning and Logistics.
10. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply and electricity services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
11. 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.
12. The kerb crossings and driveways to the site approved by this permit are to meet the technical standards of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
13. Where unfenced, the Ross Highway road frontage is to be appropriately fenced in accordance with the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics' standards and requirements to the satisfaction to the consent authority.
14. Any proposed work (including the provision or connection of services) within, or impacting upon the Ross Highway road reserve shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. Design documents must be submitted to the Director Corridor Management, Transport and Civil Services Division for Road Agency Approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
15. Stormwater is to be collected and retained within the site or discharged into the drainage network to the technical standards of and at no cost to the Transport and Civil Services Division (Department of Infrastructure, Planning and Logistics) to the satisfaction of the consent authority.
16. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Department of Infrastructure, Planning and Logistics (Ross Highway & Lot 8288) drains or to any watercourse.
17. The existing driveway along the northern boundary with Lot 7864 is to be closed and reinstated with screen landscaping, subject to compliance with the

maintenance of fire breaks and service authority requirements for access to the water pipeline easement, and further subject to the satisfaction of the consent authority.

NOTES

1. This development permit does not grant "building approval" for the structures and associated uses. The applicant/land owner is advised to engage a building certifier, within the meaning of the *Building Act 1993*, to ensure the building/s comply with the *Building Act 1993* and associated Regulations.
2. Lot 5776 is located within the Alice Springs Erosion Hazard Area as declared under the *Soil Conservation and Land Utilisation Act 1969*. The landholder must not undertake activities that will cause or exacerbate erosion associated with wind or water and must manage groundcover to ensure effective dust control. For further information, contact the Land Development Coordination Branch: (08) 8999 4446.
3. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by the Department of Environment and Natural Resources. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

4. For the purposes of best practice land management and environmental protection it is recommended that a Type 1 Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Environment and Natural Resources ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
5. Any floodlighting or security lighting provided on site is to be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Ross Highway traffic.
6. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council.

7. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@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.
8. This permit will expire if one of the following circumstances applies:
 - (a) the development and use is/are not started within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.The consent authority may extend the periods referred to if a request (application) is made in writing before the permit expires.
9. There are statutory obligations under the *Weeds Management Act 2001* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment and Natural Resources.
10. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
11. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
12. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account any planning scheme that applies to the land to which the application relates.

The Northern Territory Planning Scheme applies, and the land is in Zone RL (Rural Living) the primary purpose of which is to provide for low-density rural living and a range of rural land uses.

The application seeks to regularise a landscaping supplies business including outdoor display and storage areas. The use is long standing, having been established prior to the introduction of planning controls in 1981. It was

originally associated with a plant nursery until the parent parcel (Lot 5525) was subdivided. That use continued and was still being conducted on Lot 5776 at the commencement of the current NT Planning Scheme (gazette reference S1, 01/02/2007). Subsequent to the introduction of current Scheme it appears that the landscaping supply business use expanded both in terms of the area of Lot 5776 on which the use was being carried out and the intensity of the use.

The Scheme does not define a landscaping supply business, nor is it shown on the relevant zoning table for Zone RL. The use is not a 'plant nursery' as the premises is not principally used for the growing and/or display of plants for sale. The Authority considered that the particular use being carried out on Lot 5776 was undefined and noted that a similar approach was previously taken in respect of characterisation of a sand and gravel supply business at Lot 5533, Stegar Road. As an undefined use, the landscaping supply business operating at Lot 5776 is therefore discretionary under Clause 2.2 of the NTPS.

[Note: As per Clause 2.2 of the Scheme, a use not defined by the Planning Scheme nor shown on the relevant zoning table is discretionary and requires consent.]

2. Pursuant to section 51(e) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application. One public submission was received in opposition to the application, the matters raised in the submission and evidence provided at the meeting have been taken into account by the Authority. No local authority submissions were received during the exhibition period under section 49 of the *Planning Act 1999* with respect to the proposal. The public submission was made by Mr and Mrs Drogemuller who are the landowners and residents of Lot 7864 and are the immediate northerly neighbours of Lot 5766. The use of Lot 7864 as a rural residence is also longstanding and compliant with the NT Planning Scheme. The Authority noted that Mr Drogemuller had been resident on Lot 7864 since 1963 when the subject Lots still formed part of the parent parcel. Both Mr and Mrs Drogemuller attended the meeting and spoke to their submissions. Mrs Drogemuller tabled photos showing the extent of the dust problem they cope with as a result of the landscaping supply business operating at Lot 5776. The Authority noted that complaints were made to the NT Government in the 1990's regarding the dust nuisance and other amenity issues emanating from Lot 5776 and that Mr and Mrs Drogemuller continue to experience interference with their use and enjoyment of their property as a result of the landscaping supply business. Mr Drogemuller indicated that noise associated with the bulk deliveries and pickups from the site has become a particular issue. The advisory notes and conditions of approval (referred to in subsequent reasons for the decision) are intended to address the submissions concerns by limiting impacts on Lot 7864.
3. Pursuant to section 51(j) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account 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 land is reasonably flat and not identified as being liable to inundation in a 1% AEP Defined Flood Event. The surrounding area has been developed for rural residential purposes for over 40 years and the application seeks to regularise changes that have been made to landscaping supply business that has been operating from the site since the early 1980's.

As such, the land is considered capable of supporting the proposed development. Advisory notes included on the permit summarise the obligation for the land owner to comply with the environmental controls contained in legislation administered by the Department of Environment and Natural Resources, who have not identified any objections to the proposal.

4. Pursuant to section 51(m) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account 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 advisory notes and conditions of approval are intended to assist in ensuring service authority interests are duly recognised in terms of works within and affecting the road reserves, vehicle access, storm water drainage, electricity and water services that apply to the development and use of the land on the land.
5. The original Application referred to a second dwelling on the Lot which was unapproved and referred to it as an independent unit for planning purposes. The Applicant abandoned any application for approval of that structure and undertook to remove it from the property. The Authority considered that the structure should be removed within 12 months.
6. Pursuant to section 51(n) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated. The application seeks to regularise the *Planning Act 1999* status of a landscaping supplies business that was originally established on part of the land in the 1980's with various alterations and additions made over the years. The *Planning Act 1999* defines "amenity" in Section 3 as follows:

amenity, in relation to a locality or building, means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.

One of the considerations that the Authority must take into account is whether the amenity of a locality will be adversely affected by a development proposal. The first step is to undertake an objective inquiry as to the existing character of the area. Once that character is ascertained, the next step is to consider how the proposal might affect that amenity, having regard to its impacts – for example, car parking and traffic, noise, etc.

The Lot fronts the Ross Highway which is zoned as a Main Road. Although the Lot is zoned RL there are a variety of uses surrounding it. Adjacent and nearby properties are:

- Lot 5777, abutting to the south boundary, developed with a plant nursery, dwelling and ancillary sheds / outbuildings;
- Lot 7864, abutting to the north boundary, developed with a single dwelling and ancillary sheds and owned by the submitters, Mr and Mrs Drogemuller;
- Lot 8288, abutting the rear boundary which is Crown land (Todd River); and
- Lot 8046 on the north side of Ross Highway and the intersection to Stegar Road containing the depot for the Volunteer Fire Brigade.

The Authority notes that the question of amenity is further complicated by the longstanding use as a landscaping supplies business. Although there is a history of complaints by the immediate neighbours who occupy Lot 7864 and, who are also submitters to this application, there is no evidence of other complaints in relation to the operation of the business or any other submissions in relation to the Application. While the Authority notes the very real impacts and concerns expressed by Mr and Mrs Drogemuller, the Authority considers that, in respect of the larger locality of the area, the business can be operated in a way that does not unduly interfere with the amenity of that area.

The Authority notes that this decision relates purely to this particular business and takes account of both the existing longstanding nature of the use and the current level of intensity. It further notes that it does not consider the amenity of the locality and, in particular, the amenity of the immediate neighbours, would support any further intensification of the use and has conditioned the permit accordingly to take account of the current level of activity and to require any changes to that use and development as shown on the endorsed plans will require the further consent of the Authority.

With particular reference to the amenity of the neighbouring block, Lot 7864, the Authority has included a number of conditions designed to limit the impacts on that Lot, including restrictions on the use of the northern boundary and limitations on the hours of operation.

Subject to the land owner complying with the conditions and advisory notes listed on the permit, the operation of the use can be operated in a manner that minimises potential impact on the future amenity of the area.

ACTION: DAS to prepare a Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

19 December 2019