

DEVELOPMENT CONSENT AUTHORITY  
ALICE SPRINGS DIVISION

NORTHERN TERRITORY PLANNING SCHEME 2020

AGENDA ITEM: **2** MEETING DATE: 12/02/2025 FILE: PA2024/0396

APPLICATION PURPOSE: Outbuilding (shed/garage) addition to dwelling single with reduced building setbacks to the side boundary

SUBJECT SITE: NT Portion 7390 (7) Miethke Street, Kilgariff

ZONE: LR (Low Density Residential)

SITE AREA: 825m<sup>2</sup>

APPLICANT Mr Caleb Smith (landowner)

**1. PROPOSAL**

The application seeks consent to develop and outbuilding (shed/garage) 3.8m in height from the ground level to its highest apex point with a reduced building setback of 150mm from the side boundary adjoining NT Portion 7391.

Locality images are at **Bookmark A.1** and site photos are at **Bookmark A.2**.

The drawings are provided at **Bookmark B.1** and the application is at **Bookmark B.2**.

**2. REASON FOR APPLICATION AND LEVEL OF ASSESSMENT**

In considering an application for consent for a use or development that has become Merit Assessable under Clause 1.8(1)(b)(ii)(2), the consent authority must consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements.

Part 3 Overlays

No overlays apply to NT Portion 7390.

Part 4 Zones and Assessment Tables

- Clause 4.2 LR (Low Density Residential)

Part 5 Development Requirements

- Clause 5.2.1 General Height Control
- Clause 5.2.6.1 Landscaping in Zones other than Zone CB
- 5.4.6.1 Private Open Space for Dwelling – single, Dwelling – independent and Dwelling – group
- Clause 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures

### 3. ASSESSMENT SYNOPSIS

This report concludes that the Authority should defer consideration of the application to require the applicant to provide additional information considered necessary to enable proper consideration of the application, as discussed in section 7 of this report.

### 4. BACKGROUND

No previous development consent history relates to NT Portion 7390.

### 5. PUBLIC EXHIBITION

The application was referred to the adjoining owner of NT Portion 7391 for a period of two weeks. No public submission or correspondence were received under section 49(1) of the *Planning Act 1999*.

### 6. THIRD PARTY APPEAL RIGHTS

There is no right of appeal by a third party under section 117 of the *Planning Act 1999* in respect of this determination.

### 7. MATTERS TO BE TAKEN INTO ACCOUNT (SECTION 51 OF THE *PLANNING ACT*)

**Pursuant to Section 51(1) of the *Planning Act 1999*, a consent authority must, in considering a development application, take into account any of the following relevant to the development:**

***(a) any planning scheme that applies to the land to which the application relates***

In considering an application for consent for a use or development identified as Merit Assessable the consent authority must take into account all of the following:

- (a) the relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;
- (b) any Overlays and associated requirements in Part 3 that apply to the land; and
- (c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6.

A copy of the Technical Assessment is at **Bookmark C**.

#### Clause 4.2 Zone LR – (Low Density Residential)

The purpose of Zone LR is to provide predominantly for low rise urban residential development comprising individual houses and uses compatible with residential amenity, in locations where full reticulated services are available.

Zone outcome 4 of Clause 4.2 directs the development of outbuildings are set back in a manner sympathetic to neighbours, the streetscape and scale and character of surrounding development.

The application requests an almost nil building setback to the side boundary adjoining NT Portion 7391. It is considered that the Kilgariff estates area does not contain any nil reduced building setbacks approved by the Development Consent Authority. It is considered with regards to the zone purpose that the development in its current form is not compatible with the immediate locality or greater Kilgariff residential subdivision. Concerns also relate to the scale of the development which rivals the apex height of the single dwelling.

### Clause 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures

The purpose of Clause 5.4.3 is to ensure that residential buildings and ancillary structures are located in a manner that:

- (a) is compatible with the streetscape and surrounding development including residential buildings on the same site;
- (b) minimises adverse effects of building massing when viewed from adjoining land and the street;
- (c) avoids undue overlooking of adjoining properties; and
- (d) facilitates breeze penetration through and between buildings.

It is considered that the proposed building setback variation is not compatible with the streetscape and surrounding development because the relatively new subdivision was developed to comply with development requirements.

The development will comply with the permitted setback distance from the primary street (6m) and it is noted that the Mietkhe Street Road Reserve is 30m in width which maximises view lines for buildings on the opposite side of the street towards the development.

The site plan provided indicates a 2.350m distance between the proposal and the existing house. The NTPS2020 does not outline setback requirements between residential buildings and ancillary structures on the same site, however the separation can allow for an improved setback that is more sympathetic for the adjoining property and allow for access to the rear of the property via the shed. It is noted from the site plan that if the proposal was located further within the property and in line of the dwelling footprint, that the concerns related to overlooking could be improved.

- (b) any proposed amendments to such a planning scheme:**
  - (i) that have been or are on exhibition under Part 2, Division 3;**

- (ii) in respect of which a decision has not been made under Part 2, Division 5; and  
(iii) that are relevant to the development proposed in the development application**

There are no proposed amendments to the Northern Territory Planning Scheme 2020 which affect this proposal.

- (c) an interim development control order, if any, in respect of the land to which the application relates**

There are no interim development control orders relevant to the site.

- (d) an environment protection objective within the meaning of the Waste Management and Pollution Control Act 1998 that is relevant to the land to which the application relates**

There are no environmental protection objectives relevant to the land.

- (e) 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 during the exhibition period under Section 49 of the Planning Act 1999 with respect to the proposal.

- (f) a matter that the Minister has, under section 85, directed it to consider in relation to development applications generally**

The Minister has made no direction in relation to the application.

- (h) the merits of the proposed development as demonstrated in the application**

The merits as stated are below;

- “The proposed shed will replace the untidy bit of the yard that’s in view from the neighbours and front entrance”.
- “It will be in a colour bond colour enhancing the aesthetics for both the neighbours and my property”.
- “The proposed shed would clear up my yard being able to store camping gear, tools, work benches and gardening equipment in the shed”.

- (j) 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 capable of supporting the retention of an outbuilding. However, concerns are related to the scale of development proposed with a nil building setback.

- (k) the public facilities or public open space available in the area in which the land is situated and the requirement, if any, for the facilities, or land suitable for public recreation, to be provided by the developer**

It is not a requirement so this development proposal to provide public facilities or public open space.



- (m) *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 proposal was circulated to the following authorities for comment:

**Local Authority (Alice Springs Town Council): – Bookmark D**

The local authority noted the following;

All stormwater runoff from impervious areas is to be contained within the site or discharged to the Council stormwater drainage system. Due to the shed's proximity to the boundary, guttering and downpipes must be installed and directed away from neighbouring properties. If the developer discharges stormwater into Council's drainage system a permit to work within the road reserve must be obtained from Council before commencement of the work.

**Service Authority:**

**Power and Water Corporation (Power Division)– Bookmark E**

The local authority noted the following;

The landowner shall engage a licensed electrician to install any applicable electrical installations for the proposed shed/garage in accordance with the current PWC's NP018 Service and Installation Rules 2024.

- (n) *the potential impact on the existing and future amenity of the area in which the land is situated***

Amenity concerns are related to the almost nil building setback proposed. A nil building setback within the Kilgariff Estate has not been established via development consent and as a result the proposal does not meet the purpose of Clause 5.4.3 or the zoning outcome of Clause 4.2.

- (p) *the public interest, including (if relevant) how the following matters are provided for in the application:***

- (i) *community safety through crime prevention principles in design;***
- (ii) *water safety;***
- (iii) *access for persons with disabilities***

- Consideration of the Community Safety Design Guide is not considered relevant with regards to this proposal.
- No pool or spa is located on site.
- The development may be subject to NCC requirements subject to advise from a registered NT Building Certifier.

- (pa) *for a proposed subdivision or consolidation of land in a Restricted Water Extraction Area – whether the subdivision or consolidation complies with the restrictions of sections 14A and 14B of the Water Act 1992 and the requirements of section 14C(1) of that Act;***

Not applicable to this application.

- (q) *for a proposed subdivision of land on which a building is, or will be, situated – 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)*

Not applicable to this application.

- (r) *any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the Heritage Act 2011*

There are no known natural, social, cultural or heritage values on the site or in the immediate surrounding area.

- (s) *any beneficial uses, quality standards, criteria, or objectives, that are declared under section 73 of the Water Act 1992*

NT Portion 7390 is within the Alice Springs Water Control District. It is the responsibility of the developer and land owner to ensure that land use does not result in a contravention of the *Water Act 1992*.

- (t) *other matters it thinks fit*

No other matters are raised for consideration by the consent authority.

### **Section 51(2) of the Planning Act 1999**

*If a development proposal is required to be referred to the NT EPA under Part 4, Division 3 of the Environment Protection Act 2019, the consent authority must not make a decision under this Division in relation to a development application for the proposal unless:*

- (a) *the NT EPA has determined that an environmental impact assessment is not required under that Act for that proposal; or*  
(b) *if the NT EPA has determined that an environmental impact assessment is required – an environmental approval has been granted under that Act for the proposal and the decision is consistent with that approval; or*  
(c) *the Environment Protection Act 2019 otherwise permits the making of the decision.*

The Environment Protection Act 2019 otherwise permits the making of the decision by virtue that referral is not required.

## **8. RECOMMENDATION**

That, pursuant to section 46(4)(b) of the Planning Act 1999, the Development Consent Authority defer consideration of the application to develop NT Portion 7390 (7) Mietkhe Street, Kilgariff, Town of Alice Springs for the purpose of outbuilding (shed/garage) addition to dwelling single with a reduced building setback to the side boundary to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

A response from the applicant is requested:

## Item 2

1. showing amendments to the design / siting of the building(s) to reduce the visual impact as presented to the streetscape. The re-design could include a combination of:
  - reducing the building footprint, length and expanse of the structures;
  - reducing the visual bulk and building massing of the proposal by amending the roof pitch and wall heights
  - demonstration within drawings of how the proposed development will be visually consistent with the streetscape (eg: building materials integrated with design of dwelling-single)
2. Explaining how the siting and design of the proposed structure is consistent with the purpose of Clause 5.4.3 and outcome of zoning Clause 4.2 of the NT Planning Scheme 2020.
3. Detailing the need for the outbuilding to have such a reduced building setback to the primary street boundary and explaining why alternatives including:
  - a smaller shed with compliant building setbacks;
  - an extension to (and/or remodelling of) the footprint of the existing-dwelling single;  
or
  - constructing a shed/garage and or carport in the western side of the site would not achieve the landowner's requirements;

**AUTHORISED:**

*Kieran Marsh*

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**PLANNER - ALICE SPRINGS  
DEVELOPMENT ASSESSMENT SERVICES**



# PA2024/0396 - NT PORTION 7390 - (7) MIETHKE STREET - KILGARIFF

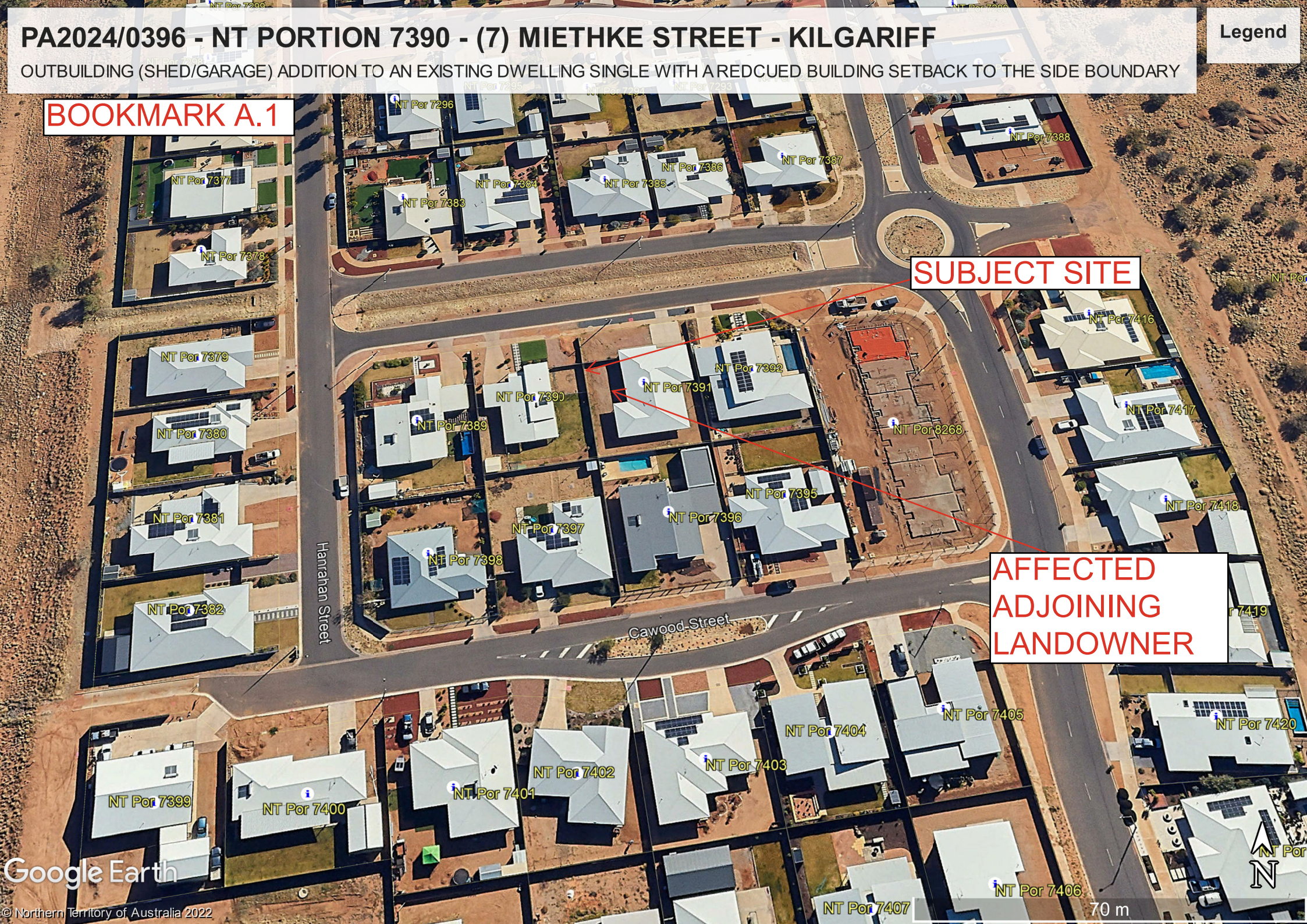
Legend

OUTBUILDING (SHED/GARAGE) ADDITION TO AN EXISTING DWELLING SINGLE WITH A REDUCED BUILDING SETBACK TO THE SIDE BOUNDARY

**BOOKMARK A.1**

**SUBJECT SITE**

**AFFECTED  
ADJOINING  
LANDOWNER**





**ZONING LOCALITY**

**SUBJECT SITE**



**Survey Bench Marks**

- Proposed
- Lodged
- Approved
- Adopted
- Disturbed
- Gone
- Storm Surge 2100 Primary
- Storm Surge 2100 Secondary

**General Lines**

- Lot Boundaries
- Road Boundaries
- Gateway Locations
- Land Subject to Flooding
- Land Adjacent to Designated Roads
- Clearing of Native Vegetation
- Coastal Reclamation

**Town Planning Zones**

- A - Agriculture
- CV - Caravan Park
- CB - Central Business
- C - Commercial
- CL - Community Living
- CP - Community Purpose
- CN - Conservation
- DV - Development
- RR - Rural Residential
- GI - General Industry
- HT - Heritage
- HR - High Density Residential
- H - Horticulture
- LI - Light Industry
- M - Main Road
- MR - Medium Density Residential
- LMR - Low-Medium Density Residential
- CA - No Planning Scheme Controls
- OR - Organised Recreation
- PM - Proposed Main Road
- PS - Public Open Space
- RW - Railway
- RD - Restricted Development
- R - Rural
- RL - Rural Living
- SC - Service Commercial
- LR - Low Density Residential
- S - Specific Use
- TC - Tourist Commercial
- U - Utilities
- WM - Water Management
- FD - Future Development
- RJ - Residential Jabiru
- PSJ - Public Open Space Jabiru
- ORJ - Organised Recreation Jabiru
- CJ - Commercial Jabiru
- SCJ - Service Commercial Jabiru
- TCJ - Tourist Commercial Jabiru
- CPJ - Community Purpose Jabiru
- FDJ - Future Development Jabiru
- IJ - Industrial Jabiru
- MJ - Main Road Jabiru
- UJ - Utilities Jabiru

**Road Labels**

- Bottom Left: 133° 52' 31", -23° 46' 35"
- Top Right: 133° 52' 43", -23° 46' 27"
- Approximate Scale: 1:2,500
- Datum: GDA 1994
- Information purposes only
- Not guaranteed
- Not a Land Information System
- Copyright Northern Territory of Australia

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NIL (150mm) Building setback to the side boundary





AFFECTED ADJOINING LANDOWNER













