



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 265 – WEDNESDAY 11 AUGUST 2021

**GREEN WELL BUILDING, ROPER ROOM
1ST FLOOR, 50 BATH STREET
ALICE SPRINGS**

MEMBERS PRESENT: Suzanne Philip (Chair), Deepika Mathur, Jimmy Cocking,
Marion Guppy (via videoconference)

APOLOGIES: Chris Neck, Jamie de Brenni

OFFICERS PRESENT: Peter Somerville, Benjamin Taylor, Sarah Fairhead,
Jennie Ryan

COUNCIL REPRESENTATIVE: Dilip Nellikat, Kaitlyn Weeks, Opat Innuan

Meeting opened at 10:40 am and closed at 12:15pm

THE MINUTES OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 DEVELOPMENT APPLICATION - OUTBUILDING (SHED) ADDITION TO DWELLING-SINGLE WITH REDUCED BUILDING SETBACKS TO FRONT AND SIDE BOUNDARIES

PA2021/0201 LOT 1867, 7 EWART PLACE, SUBURB OF GILLEN, TOWN OF ALICE SPRINGS

APPLICANT KFIR PRONKHORST & YELENA SIDOROV

Mr Pronkhorst and Ms Sidorov attended the meeting and spoke further to the application.

RESOLVED That, pursuant to section 46(4)(b) of the *Planning Act 1999* the Development
0043/21 Consent Authority defers consideration of the application to develop Lot 1867 (7) Ewart Place, Suburb of Gillen, Town of Alice Springs for the purpose of a outbuilding (shed) addition to an existing dwelling-single with reduced front and side setbacks, subject to the applicant submitting the following information that the consent authority considers necessary to enable proper consideration of the application:

- response from the applicant:
 - i. showing amendments to the design / siting of the shed to reduce the visual impact as presented to the streetscape and adjacent property;
 - ii. explaining how the siting and design of the proposed shed (presented to the DCA for further consideration) is consistent with the purpose statement of Clause 5.4.3 of the Scheme and associated administration criteria (sub-clause 1)
 - iii. detailing the need for the shed/garage to have such a reduced building setback to the front boundary and explaining why alternatives including:
 - a smaller shed with compliant building setbacks;
 - an extension to (and/or remodeling of) the footprint of the existing-dwelling single; or
 - constructing a shed/garage in the rear yard of the site would not achieve the land owner's requirements;
- Details of any screening and/or landscaping on the site to be retained or proposed between the shed and the front boundary to lessen the visual bulk of the shed.

REASONS

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

The land is within Zone LR (Low Density Residential) of the NT Planning Scheme 2020 (NTPS 2020) and the purpose of the zone 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*. The zone outcomes relevant to the application include:

- Outcome 4 - *dwelling and outbuildings are setback in a manner sympathetic to neighbours, the streetscape and scale and character of surrounding development; and*
- Outcome 6 - *building design, site layout and landscaping provide a sympathetic interface to the adjoining public spaces and between neighbours, provides privacy and attractive outdoor spaces.*

The development requirements of “Part 5” of the NTPS 2020 include Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) which requires that walls of an outbuilding (shed) are setback a minimum of:

- 1.5m to the side boundary (0.6m building setback for roof eaves and gutters); and
- 6m to the boundary of a primary street (5.1m for roof eaves and gutters) respectively.

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.*

Pursuant to sub-clause 5 of Clause 1.10 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to the purpose and administration clauses of the requirement.

Sub-clause 1 (Administration) of Clause 5.4.3 specifies - *the consent authority may consent to a development that is not in accordance with sub-clause 5 (of Clause 5.4.3) only if it is satisfied that the reduced setback is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.*

The Authority noted that the streetscape (of Ewart Place):

- did not feature any approved sheds/garages with reduced building setbacks to street boundaries;

- includes mature landscaping in the front yards and single storey buildings;

Deviating this established character and building setback line, combined with the:

- dimensions (length, width, wall and apex height); and
- absence of design articulation (eg: façade treatment, colours, reduction of visual bulk)

of the proposed structure would not be consistent with the purpose of Clause 5.4.3 (and administration criteria outlined in sub-clause 1).

Deferral of the proposal will give the applicant opportunity to reconsider the design response to the objectives and purpose statements contained in the NT Planning Scheme 2020.

2. The application as submitted is not considered to provide sufficient information to enable a full and proper assessment of the application against the matters contained in section 51 of the *Planning Act 1999*.

**RESOLVED
0044/21**

That, pursuant to section 86 of the *Planning Act 1999*, the Authority delegates to the Chair, the power under section 53 of the Act, to determine the application to develop Lot 1867 (7) Ewart Place, Suburb of Gillen, Town of Alice Springs for the purpose of a outbuilding (shed) addition to an existing dwelling-single with reduced front and side setbacks, subject to:

- The submission of amended plans and documentation responding to the points of deferral outlined in resolution 43/21 of the Alice Springs Division of the Development Consent Authority; and
- further subject to conditions as determined by the delegate.

FOR: 4 AGAINST: 0 ABSTAIN: 0

ACTION: DAS to prepare a letter to applicant

ITEM 2 CHANGE OF USE FOR PART OF BUILDING TO SHOP AND WAREHOUSE
PA2021/0220 LOT 9656 (30) STUART HWY, SUBURB OF CICCONE
APPLICANT FOODBANK SA INC

Greg Pattinson (CEO, Foodbank SA Inc) attended the meeting via video conference and spoke further to the application. Leanne Malek (Food Hub & Client Support Manager, Foodbank SA Inc), and Jessica Wishart (Regional Manager, Central Australia, Foodbank SA Inc) attended the meeting and spoke further to the application. Jacinta Ashley (Food Hub Coordinator, Alice Springs, Foodbank SA Inc) attended the meeting in support. Ian Johnson (Owner, Lot 9656 (30) Stuart Hwy, Ciccone) attended the meeting and spoke further to the application.

RESOLVED That, the Development Consent Authority varies the requirements of clause 5.2.4.1
0045/21 (Parking Requirements), clause 5.2.4.4 (Parking Layout), clause 5.2.6
(Landscaping) of the Northern Territory Planning Scheme 2020, and pursuant to
section 53(b) of the *Planning Act 1999*, alters the proposed development and
consents to the proposed development as altered to develop Lot 9656 (30) Stuart
Highway, Suburb of Ciccone, Town of Alice Springs for the purpose of change of use
for part of building (Tenancy 1) to 'foodbank' shop and warehouse with ancillary
office, subject to the following conditions and for the following reasons:

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 in Adobe PDF format, drawn to scale with dimensions and generally consistent with the plans publicly exhibited, but modified to:
 - a) (Option 1)
 - (i) Re-align spaces 19 and 20 to 90 degrees to the western side boundary hard against the northern bin location (allowing accessibility if the loading bay is in use); and
 - (ii) widen space 27 by removing the line-marking to its northern side; or
 - b) (Option 2)
Provide an alternative parking layout (to the satisfaction of the consent authority) that may be expected to ensure safe and convenient access to and from each parking space; and
 - c) Show signage identifying 'parking space 2' (as shown in the exhibited plans) as:
 - (i) a small car only parking space; or
 - (ii) motorcycle parking space; or

- (iii) an extension of the adjacent 'disabled accessible' space (i.e. parking space 1); and
- d) Show signage prohibiting vehicles from exiting the site directly to Stuart Highway (i.e. via the existing Stuart Highway ingress); and
- e) Include revised landscape a fencing plan detailing landscaping to all landscape areas in the publicly exhibited plans including planting to the landscape area to the north-eastern side of the Hele Crescent site access and designed with a view to:
 - (i) contributing to the amenity of the streetscape;
 - (ii) providing passive surveillance opportunities at ground level; and
 - (iii) providing sight lines for vehicles entering and exiting the site.

(The landscape plans should include a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant and identify provision of an in ground irrigation system to all landscaped areas. Suitability of the amended drawings to the satisfaction of the consent authority.

The consent authority encourage the owner/developer to consider consulting the Alice Springs Town Council with a view to identifying possible mutually beneficial landscape outcomes within the adjacent Hele Crescent road reserve.

Responses to the conditions precedent may be submitted to the Development Consent Authority for consideration and/or endorsement C/- Development Assessment Services, DIPL (Att: 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 by the consent authority as forming part of the permit.
3. The owner of the land must enter into agreements with the relevant authority for the provision of electricity facilities to the development on the endorsed drawings in accordance with the authorities' requirements and relevant legislation at the time.
4. Stormwater is to be retained on the site and/or collected and discharged into the drainage network to the technical standards of the Department of Infrastructure, Planning and Logistics (Transport and Civil Services Division) and Alice Springs Town Council respectively (as relevant) at no cost to the agencies, to the satisfaction of the consent authority.
5. The kerb crossovers and driveways to the site are to be provided to the requirements and technical standards of the Department of Infrastructure, Planning and Logistics (Transport and Civil Services Division) and Alice Springs Town Council respectively (as relevant) at no cost to the agencies, 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 technical standards of the Department of Infrastructure, Planning and Logistics (Transport and Civil Services Division) and Alice Springs Town Council respectively (as relevant) at no cost to the agencies, to the satisfaction of the consent authority.

7. The Stuart 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.
8. Before the use or occupation of the development starts, the areas set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.Car spaces, access lanes and driveways must be kept available for these purposes at all times.
9. Before the use/occupation of the approved use of Tenancy 1 starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
10. 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. Storage of garbage and other solid waste must be screened from public view to the satisfaction of the consent authority.
12. If in the future, the 'foodbank' use for the Tenancy 1 shop is to be used for any other shop use, an additional 3 on-site parking spaces must be provided in accordance with a suitably amended site plan designed to respond to the parking layout requirements of the applicable planning scheme at the time and submitted to and endorsed by the consent authority as part of this permit.

NOTES

1. The landscaping and parking layouts approved through this development permit prevail over those approved under Development Permit DP06/0004B and Development Permit DP07/0096. This permit does not alter the previously approved uses or building design for 'Tenancies 2 and 3' or the caretaker's residence.
2. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
3. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the *Building Act 1993*, the *Public and Environmental Health Act 2011* and the *Food Act 2004*.
4. A "Permit to Work Within a Road Reserve" may be required from the Alice Springs Town Council before commencement of any work within the Hele Crescent road reserve.

5. Permission for "Verge Landscaping" on the Alice Springs Town Council managed verge can be obtained for free. The relevant policies and forms may be obtained from Council at no cost to the applicant. Allowance must be made to permit the inclusion of a footpath within the landscaping. The footpath plan should indicate a pedestrian and disabled access along the lot frontage, including allowance for wheel chairs to pass through.
6. The installation of any services or service connections within the Stuart Highway road reserve is subject to Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics approval. All service related works are to be contained within the appropriate nominal service corridor (refer standard drawing CS-3001).
7. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council.
8. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@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.
9. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
 - a) so as not to create sun or headlight reflection to motorists; and
 - b) be located entirely (including foundations and aurally) within the subject lot. Advertising signage, either permanent or temporary, e.g. 'A' frame, vehicle or trailer mounted shall not be erected or located within the Stuart Highway road reserve.
The location and details of the sign(s), including those of the supporting structure, as shown on the endorsed plans, must not be altered without the further consent of the consent authority.
10. 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 Stuart Highway traffic.
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. The Heritage Branch of the Department of Territory Families, Housing and Communities has noted that adjoining Lot 547 (4) Hele Crescent is a declared heritage place known as the 9th Aust. Advanced Ordinance Depot Camp. The developer will need to ensure that works associated with the development permit do not impact on Lot 547. Heritage Register link follows: <http://www.ntlis.nt.gov.au/heritageregister/f?p=103:301>

REASONS

1. Pursuant to section 51(1)(a) of the *Planning Act 1999* (the Act) , the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The NT Planning Scheme 2020 (NTPS 2020) applies to the land which is within Zone LI (Light Industry). The proposed warehouse and ancillary office are permitted in Zone LI (Light Industry), except where these uses do not comply with the relevant development requirements set out in Part 5 of the Scheme. As this proposal requires variations to clauses 5.2.4.1 (Parking Requirements), 5.2.4.4 (Parking Layout), 5.2.6 (Landscaping), those elements becomes 'Merit Assessable' under clause 1.8(1)(b)(ii)(2) of NTPS 2020. The proposed 'shop' is listed in the zoning table to Zone LI as 'Impact Assessable'. Under clause 1.10.4 of NTPS 2020, in considering an application for consent for a use or development identified as 'Impact Assessable' the consent authority must take into account all of the following:
 - any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;
 - any Overlays and associated requirements in Part 3 that apply to the land;
 - the guidance provided by the relevant zone purpose and outcomes in Part 4; an
 - any component of the Strategic Framework relevant to the land as set out in Part 2.

The proposal was assessed against the requirements of the Act and the requirements of NTPS 2020 and is considered to respond satisfactorily to applicable requirements and objectives of NTPS 2020 as it relates to the site and locality, subject to minor revisions required through conditions of approval.

The consent authority granted variation/s to:

- (a) clause 5.2.4.1 (Parking Requirements), of the NTPS 2020 to allow a reduced parking provision of 34 spaces instead of a minimum of 37 spaces as:
 - (i) The foodbank shop will not be open to the general public;
 - (ii) The proposed change of use for Tenancy 1 from 'showroom sales, workshop, warehouse and ancillary office' to 'foodbank shop and warehouse and ancillary office' is not expected to generate a demand for parking in associated with the use of the tenancy, despite a calculated shortfall of 3 parking spaces;
 - (iii) The proposed parking provision for the site is expected to meet or exceed the parking requirements generated by the established uses of Tenancies 2 and 3 and the proposed use of Tenancy 1;
 - (iv) There are public bus stops immediately adjacent to and opposite the site; and
 - (v) The proposal is not expected to conflict with any zone outcome for Zone LI (Light Industry) on account of the reduced parking.Approval includes a condition requiring the provision of an additional 3 on-site parking spaces if the approved 'foodbank shop' use for Tenancy 1 is converted to any other type of shop, allowing for a potential increase in parking that may be expected to accompany such a change.
- (b) Sub-clause (g) of clause 5.2.4.4 (Parking Layout) of the NTPS 2020 to allow reduced planting depth (i.e. between a street boundary and a parking area) as:
 - (i) The proposed landscaping and fencing concept reflects a minor change from a previously approved landscaping plan;
 - (ii) The development is not expected to result in adverse impacts on the local road network or internal functionality of the car parking area; and

- (iii) Subject to suitable additional planting to the landscape area to the north-eastern side of the Hele Crescent driveway, landscaping and fencing is expected to satisfactorily respond to the objective of lessening the visual impact of the car parking area (clause 5.2.4.4.2(g) and clause 4.14.7 (Zone Outcome 7 for Zone LI).
- c) Sub-clause (h) of clause 5.2.4.4 (Parking Layout) of the NTPS 2020 to allow non-standard angle parking generally as set out in the publicly exhibited plans, subject to suitable refinement to the design of spaces 2, 19, 20 and 27 (or alternative suitable revision) as required by conditions precedent to ensure safe and convenient access to all parking spaces, as:
 - (i) the layout is expected to be functional subject to suitable refinement to the layout for spaces 19, 20 and 27 and suitable signage to space 2; and
 - (ii) the proposal is not expected to frustrate any zone outcome for Zone LI.
 - d) Sub-clause 4 of clause 5.2.6 (Landscaping), of the NTPS 2020 to allow 1.8m high screen fencing instead of planting to part of the Hele Crescent frontage as:
 - (i) The proposal generally provides a high standard of landscaping to the Stuart Highway street frontage and part of the Hele Crescent frontage; and
 - (ii) Subject to a suitably revised and detailed landscape plan including planting within the landscape area to the north-eastern side of the Hele Crescent site access (as required by conditions precedent), it is expected that the landscaping will satisfactorily respond to the purpose of clause 5.2.6. and clause 4.14.7 (Zone Outcome 7 for Zone LI).
2. Pursuant to section 51.1(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. The application was publicly exhibited and no submissions were received. The Alice Springs Town Council did not make any submissions in its capacity as local authority.
3. Pursuant to section 51.1(h) of the *Planning Act 1999*, in considering a development application the consent authority is required to take into account the merits of the proposed development as demonstrated in the application. The application submitted as follows, in summary, in support of the proposal:
- The Foodbank operation located in Alice Springs will be an invaluable asset to the Alice Springs community, providing food relief directly to those in need, relieving poverty, providing clients with a dignified shopping experience and supporting those in outlying communities with access to nutritious food.
 - More than 10,000 people experiencing food insecurity will be directly supported by the project. With additional families supported in the outlying communities of Alice Springs also assisted.
 - Foodbank Alice Springs will assist welfare groups and people from marginalised backgrounds who satisfy Foodbanks' standard eligibility protocols. The projects main objective is to end hunger in the region, relieving distress for those experiencing food insecurity.
 - Research shows that between 50 and 100 times the current level of food relief is needed to support the current levels of demand in Alice Springs.
 - The project will enable the ongoing safe storage, management and distribution of fresh, chilled and frozen foods, supporting the distribution of up to 250,000 kg of food in the first 12 months of operation. This

equivalent to an additional 500,000 meals for marginalised people in need in Alice Springs.

- Foodbank will offer 5 new jobs in Alice Springs, with a preference for recruiting local Aboriginal people. An independent report has shown that the combined impact of the new jobs is an estimated rise in annual output of \$3.19M, an additional \$1.57M in value-add in the Central Australian economy and creation of a further 10 local jobs.

The proposed uses are expected to contribute positively to range of services available to residents of Alice Springs and surrounding communities.

4. Pursuant to section 51.1(j) of the *Planning Act 1999*, in considering a development application the consent authority is required to 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 proposed development is not expected to have any undue impact on the physical characteristics of any other property.
5. Pursuant to section 51.1(m) of the *Planning Act 1999*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, services to be connected to the land and the requirement, if any, for those facilities or infrastructure to be provided by the developer. The Power and Water Corporation and the Department of Health have not identified any concerns in principle with the proposed development and the conditions of approval are expected to assist in ensuring that those agencies interests are duly recognised. The Department of Infrastructure, Planning and Logistics (Transport and Civil Services Division (TCSD)) and Alice Springs Town Council (ASTC) as well as identifying standard servicing requirements have sought to ensure that adequate on-site car parking is available for the proposed development and use. The consent authority expects the proposed parking provision to be adequate and notes that the respective road authorities have the ability to regulate the use of their road reserves and carriageways. The consent authority notes that both ASTC and TCSD have issued clearances for previous development permits for the site, but has includes standard conditions and advisory notes relating to access and stormwater drainage in recognition of the possibility of required refinements to the development.
6. Pursuant to section 51.1(n) of the *Planning Act 1999* the consent authority must take into consideration the potential impact of development on the existing and future amenity of the area in which the land is situated. The proposed change of use, internal alterations and changes to landscaping and car parking are not expected to adversely impact on the streetscape or the amenity of the locality, subject to additional planting being provided to the landscape area to the north-eastern side of the Hele Crescent access. Permit conditions relating to landscaping may be expected to assist in further enhancing the streetscape.
7. Pursuant to section 51.1(p) of the *Planning Act 1999* the consent authority must take into consideration 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; and
 - (iii) access for persons with disabilities.

The application commends the proposed use for its potential to benefit the public interest by (in summary) providing food relief and supporting long term food security, reducing poverty within the local community and providing job opportunities with a preference for recruiting Aboriginal people.

The Community Safety Design Guide community promotes safety through crime prevention principles in design, including through lighting and provision of passive surveillance opportunities. The development as approved is expected to offer good passive surveillance opportunities to and from the site as well as providing sight lines adjacent to site accesses.

While the application did not clearly detail how accessibility for persons with a disability would be achieved, the existing bathroom/toilet facility within Tenancy 1 have been constructed as an accessible (for persons with a disability or impaired mobility) facility and the pedestrian access into the tenancy is also 'accessible'.

8. Pursuant to section 51.1(r) of the *Planning Act* 1999 the consent authority must take into consideration 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*. The Heritage Branch of the Department of Territory Families, Housing and Communities has noted that:
- (i) The adjoining site (Lot 547 (4) Hele Crescent) contains a 'declared heritage place' known as the 9th Aust. Advanced Ordinance Depot Camp; and
 - (ii) Provided that the development does not impact on the heritage property, there are no concerns raised in relation to heritage values. An advisory note is included on the development permit, identifying the heritage conservation status of the adjacent lot.

FOR: 4 AGAINST: 0 ABSTAIN: 0

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

ITEM 3 SERVICE STATION WITH ANCILLARY FOOD PREMISES-CAFÉ / TAKE AWAY
PA2021/0185 LOTS 2696 & 5644 (194) STUART HWY, SUBURB OF BRAITLING
APPLICANT SHA PREMIER CONSTRUCTIONS PTY LTD

Rick Calabrese (SHA Premier Constructions Pty Ltd) and Pauline Maltzis (Town Planning Manager, SHA Premier Constructions Pty Ltd) attended the meeting via videoconference and spoke further to the application.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 5.2.4.4 (Parking Layout), Clause 5.2.6 (Landscaping), Clause 5.5.8 (Service Station) and Clause 5.6.1 (Setbacks and Building Design Requirements in Zones LI, GI and DV) of the NT Planning Scheme 2020, 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 Lots 2696 & 5644, 194 Stuart Highway, Town of Alice Springs for the purpose of a service station and ancillary food premises-café / takeaway, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the NT Government and Alice Springs Town Council stormwater drainage system/s (as the case may be) shall be submitted to and endorsed by the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics and Alice Springs Town Council, to the satisfaction of the consent authority. The plan shall include details of site levels and the Council's and NT Government stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's and NT Government system or an alternate approved connection.
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the drawings contained in Bookmark B of the DAS DIPL agenda report to the 11/08/2021 DCA meeting but modified to show:
 - (a) 3m building setback of the convenience store (building walls) to the Sargent Street boundary;
 - (b) 3m wide landscaping strip to the:
 - Sargent Street frontage of the site;
 - area between the:
 - convenience store building and the boundary to Stuart Highway
 - car parking bay 9 (air and water) and the boundary to Stuart Highway;
 - (c) inlets to bulk fuel storage tanks are situated so that tankers discharging fuel stand wholly within the site (locations shown on site plans to confirm compliance with sub-clause 3(c) of Clause 5.5.8 of the NTPS2020).
 - (d) pedestrian access (footpath connection) between the site boundary to Stuart Highway and pedestrian entry to the convenience store (to achieve compliance with sub-clause 3 of Clause 5.6.1 of the NTPS2020);
 - (e) locations of water meter and electricity connection (point/meter) for the site (shown on the site and landscaping drawings);
 - (f) proposed locations of floodlights, spotlights or other forms of external lighting on the site (to confirm compliance with sub-clause 5 of Clause 5.5.11 of the NTPS2020 and avoid conflict with proposed locations of landscaping);
 - (g) details of fencing to the Stuart Highway boundary of the site (as outlined in point 12 of the 12/06/2021 DIPL Transport and Civil Services comments – or written verification from that agency that no fencing will be required).

Amended plans and associated supporting documentation prepared in response to the conditions precedent may be submitted to the Development Consent Authority C/- Development Assessment Services, DIPL (Alice Springs Branch) via email to DAS.NTG@nt.gov.au. When endorsed, the plans will form part of the permit.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

4. Before the use of the development starts, the areas set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and drivewaysto the satisfaction of the consent authority.
Car spaces, access lanes and driveways must be kept available for these purposes at all times.
5. Protective kerbs (of a minimum height of 150mm) must be provided to the satisfaction of the consent authority to prevent damage to fences or landscaped areas.
6. "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.
7. The loading and unloading of goods from vehicles must only be carried out on the land (within the designated loading bay/areas and must not disrupt the circulation and parking of vehicles on the land).
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. All proposed works (including the provision or connection of services) within, or impacting upon the Stuart Highway and Sargent Street road reserves shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics (Stuart Highway) and Alice Springs Town Council (Sargent Street). Design documents must be submitted to the Alice Springs Town Council and the Transport and Civil Services Division (Department of Infrastructure, Planning and Logistics) for Road Agency Approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
11. All works recommended by the traffic impact assessment are to be completed to the requirements of the Alice Springs Town Council and the Transport and Civil Services Division (Department of Infrastructure, Planning and Logistics) to the satisfaction of the consent authority.
12. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Alice Springs Town Council (Sargent Street) and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (Stuart Highway), to the satisfaction of the consent authority.

13. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Alice Springs Town Council (Sargent Street) and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (Stuart Highway), to the satisfaction of the consent authority.
14. 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 Alice Springs Town Council (Sargent Street) and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (Stuart Highway).
15. Upon completion of any works within or impacting upon the Stuart Highway and Sargent Street road reserves, the road reserves shall be rehabilitated to the standards and requirements of the Department of Infrastructure, Planning and Logistics (Stuart Highway) and Alice Springs Town Council (Sargent Street).
16. 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.
17. 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.
18. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity services to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.
19. Lots 2696 & 5644, Town of Alice Springs are required to be consolidated and a new title issued for the consolidated lot. Also please refer to advisory "Note 1" for advice related to the National Construction Code (NCC).
20. 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 to ground level in a controlled manner to the satisfaction of the consent authority.
21. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.

NOTES:

1. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works. Due to provisions in the

National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.

2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
3. A "Permit to Work Within a Road Reserve" will be required from the Alice Springs Town Council and the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve/s and Crown land (Lot 8064).
4. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council.
5. 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.
6. 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.
7. You are advised to contact Dial Before You Dig on 1100 to obtain a location of the Telstra Network and arrange for any relocation if required. The Telstra contact for relocation work is the Network Integrity and Compliance Group on 1800 810 443.
8. Any floodlighting or security lighting provided on site should be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Stuart Highway traffic.
9. Where unfenced, the Stuart 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.
10. 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>
11. 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, Parks and Water Security 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) 89994446.

12. 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 is made in writing before the permit expires.
13. 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, Parks and Water Security (Attachment A of letter dated 18/06/2021).

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.

REASONS

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

The NT Planning Scheme 2020 applies to the land which is zoned LI (Light Industry).

Pursuant to:

- sub-clause 1(c)(i) of Clause 1.8 of the NT Planning Scheme 2020, the “service station” is an “impact assessable” land use in Zone LI
 - sub-clause 1(b) of Clause 1.9 of the NTPS2020, the ancillary “food premises-café / takeaway” (PieFace) is “merit assessable”
- and require consent.

Sub-clause 4 of Clause 1.10 specifies that: in considering an application for a use or development identified as impact assessable the consent authority must take into account all of the following:

- (a) *any relevant requirements*, “Part 5” is relevant to the development *including the purpose of the* and use.

- requirements, as set out in Parts 5 or 6;*
- The development / use (application as lodged) does not fully comply with the following aspects of “Part 5”:
- Clause 5.2.4.4 (Parking Layout) –
 - setback and landscaping of part of car parking area to street boundary is less than 3m;
 - Clause 5.2.6 (Landscaping)
 - landscaping widths to street frontages is less than 3m wide
 - Clause 5.5.8 (Service Station)
 - landscaping widths to street frontages is less than 3m wide
 - no screening provided to Stuart Highway frontage (browsers will be visible)
 - Clause 5.6.1 (Setbacks and Building Design Requirements in Zones LI, GI and DV)
 - building setbacks of convenience store to Sargent Street and Stuart Highway frontages do not comply
 - access (to building) and façade/building design of convenience store do not comply.

Discussion regarding these aspects of non-compliance is provided in Reason 2 below.

- (b) *any Overlays and associated requirements in Part 3 that apply to the land;* Not Applicable – no overlays apply to the site
- (c) *the guidance provided by the relevant zone purpose and outcomes in Part 4; and* The land is zoned LI (Light Industry) - refer to discussion below.
- (d) *any component of the Strategic Framework relevant to the land as set out in Part 2* The Alice Springs Regional Land Use Plan 2016 is a relevant document, the development and use is consistent with the guidance provided.

No Area Plan is applicable to the site.

The primary use of the site as a “service station” with an ancillary “food premises-café / takeaway” (subject to conditions on a Development Permit) is considered appropriate in terms of the Zone LI purpose and outcomes relevant to the site noting:

- The operation of the use will be low intensity in terms of built form, number of browsers, floor area and the site abuts vacant Crown land (Lot 8064);
- With the exception of the building setbacks and sections of landscaping (less than 3m wide) the development, subject to conditions, will be able to comply

with the “Part 5” performance criteria of the NT Planning Scheme 2020 and the operation of the use will need to comply with contemporary building, fire, work health and safety and public health standards;

- Service authorities have not identified any objections to proposed vehicle access arrangements (subject to compliance with conditions);
- there are no sensitive land uses adjacent to the subject site;
- There is no Area Plan for the locality or strategic guidance contained in the Alice Springs Regional Land Use Plan 2016 which prohibits the service station use at the subject site.

2. Pursuant to sub-clause 5 of Clause 1.10 (Exercise of Discretion by the Consent Authority), of the NT Planning Scheme 2020, the Development Consent Authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:

- (a) The purpose and administration clauses of the requirement; and
- (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The service station and ancillary food premises-café / takeaway development has been found not to be in accordance with:

- (a) - sub-clause 3(g) of Clause 5.2.4.4 (Parking Layout);
 - sub-clause 5 of Clause 5.2.6 (Landscaping);
 - sub-clause 4(b) of Clause 5.5.8 (Service Station)because sections of the street frontages of the site will have landscaped areas less than 3m wide;

Conditions of approval require amended building setbacks and landscaping detail to ensure the relevant purpose statements for these clauses and outcomes for Zone LI are achieved.

- (b) sub-clause 2 of Clause 5.5.8 (Service Station) as the fuel bowsers associated with the service station are not visually screened (ie: they will be visible from the Stuart Highway road reserve).

It is considered that a variations to sub-clause 2 is appropriate in this instance as the proposal is consistent with the purpose of Clause 5.5.8 and the criteria set out in sub-clause 1 as:

- the fuel bowsers will be setback ~14m from the Stuart Highway boundary and a further 11m (verge width) to the carriageway;
- landscaping is proposed to sections of the Stuart Highway boundary which may assist with screening
- sub-clause 2 does not specify what is meant by “visually screened”;
- the subject site does not abut any sensitive land uses.

- (c) sub-clauses 2-5 of Clause 5.6.1 (Setbacks and Building Design Requirements in Zones LI, GI and DV).

The design presented in the application is not considered to achieve the criteria outlined in sub-clause 1 (of Clause 5.6.1) and conditions of approval require amended drawings.

3. Pursuant to section 51(1)(e) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority is required to 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 or local authority submissions were received.

4. Pursuant to section 51(1)(j) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority is required to 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 development and use. Conditions and advisory notes included in a development permit may be expected to assist in ensuring appropriate management of erosion, dust and noise. Conditions of approval will address Alice Springs Town Council and DIPL Transport and Civil Services requirements in terms of vehicle access arrangements, works/impact on the adjacent road reserve and storm water drainage.

5. Pursuant to section 51(1)(m) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority is required to 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 of approval are intended to assist in ensuring:

- Utilities (water and electricity meters, fire hydrants etc) are shown on the drawings and avoid conflict with areas nominated for landscaping;
- Service authority interests are duly recognised in terms of storm water drainage, vehicle access, electricity, sewerage and water services that apply to the development of the land; and
- The NTPS 2020 objectives and development performance criteria relating to site access and the provision of services/infrastructure will be complied with.

6. Pursuant to section 51(1)(n) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority is required to take into account the potential impact on the existing and future amenity of the area in which the land is situated.

Subject to the development complying with the permit conditions and advisory notes, the development and use is considered to be appropriate for the zoning and locality.

7. Pursuant to section 51(1)(p)(i) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority is required to take into account the public interest including how community safety through crime prevention principles in design are provided for in the application. The application (as approved) is considered to respond satisfactorily to the objectives contained within with Community Safety Design Guide (April 2010) that forms part of the NT Planning Scheme 2020.
8. Pursuant to section 51(1)(r) of the *Planning Act 1999*, in considering a development application, the Development Consent Authority is required to take into account 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 sacred sites and restricted works areas located on the Crown land (Lot 8064) abutting the side and rear boundaries of the site and within the road

reserves. The land owner/developer is recommended to contact the Aboriginal Areas Protection Authority to ascertain any restrictions associated with works on the site, an advisory note to this effect is included on the permit.

FOR: 4 AGAINST: 0 ABSTAIN: 0

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

27 August 2021