



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 270 – WEDNESDAY 13 APRIL 2022

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

MEMBERS PRESENT: Suzanne Philip (Chair), Dr Deepika Mathur and Allison Bitar
Steven Huntingford (via videolink)

APOLOGIES: Chris Neck and Jimmy Cocking

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Chay Garde, Ben Taylor and Jennie Ryan (Development Assessment Services) Margaret Macintyre (via videolink)

COUNCIL REPRESENTATIVE: Steve Baloban

Meeting opened at 10.15 am and closed at 11.45 am

THE MINUTES RECORD 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.

The Chair, Development Consent Authority, under section 93(1) of the *Planning Act 1999*, appointed Steven Huntingford who is a member in relation to the Tennant Creek Division, to act as a member for Christopher Neck in relation to the Alice Springs's Division from 1 April 2022 to 20 April 2022 as Christopher Neck is prevented from performing his duties of office because of absence.

ITEM 1

**PA2022/0038 DWELLING-GROUP (6 X 3 BEDROOM) IN 1 SINGLE STOREY BUILDING
NT PORTION 7393 (1) MIETHKE STREET & NT PORTION 7394 (2) CAWOOD
STREET, KILGARIFF**

APPLICANT Mark Leslie Brownless

Applicant – Mark Brownless and Stuart Chalmers (Zone A Pty Ltd) attended.

**RESOLVED
8/22**

That, the Development Consent Authority varies the requirements of Clause 5.4.1 (Residential Density Limitations) and Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop NT Portions 7393 and 7394 (1) Miethke Street & (2) Cawood Street, Suburb of Kilgariff, Alice Springs for the purpose of dwellings-group (6 x 3 bedroom) in 1 x single storey building and a carport, subject to the following conditions and for the following reasons:

CONDITION 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) label the verandah / patio areas of each dwelling, including the building setbacks to street boundaries (support columns and roof eaves) – details to be shown on site and floor plans;
 - (b) label the building setbacks of the carport (support columns, roof eaves and gutters)
 - (c) show location of water meters (location and clearance dimensions shown on the site and landscaping plans, ensuring accessibility for servicing and meter reading).
 - (d) label garbage bin storage arrangements for the development on the site plan
 - (e) label boundary fencing and screening arrangements to:
 - (i) private open space areas of all units compliant with the performance criteria of sub-clause 5 of Clause 5.4.6 (Private Open Space) of the NT Planning Scheme 2020

- (ii) the boundary of the subject site and NT Portions 7392 & 7395 ie: label height above finished ground level and building material of existing fencing to be retained and/or any upgrading works to improve visual and acoustic privacy.

Amended plans 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

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. 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 or otherwise suitably delineated to indicate each car space; to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.
4. 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.
5. 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.
6. 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.
7. NT Portions 7393 and 7394, Alice Springs are required to be consolidated and a new title issued for the consolidated lot. Also please refer to Note 4 for advice related to the National Construction Code (NCC).
8. 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 to the satisfaction of the consent authority.
9. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Alice Springs Town Council, to the satisfaction of the consent authority.

10. The owner shall:
 - (a) remove disused vehicle and/ or pedestrian crossovers;
 - (b) provide footpaths/ cycleways; and
 - (c) undertake reinstatement works;all to the technical requirements of and at no cost to the Alice Springs Town Council, to the satisfaction of the consent authority.
11. 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.
12. 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.
13. 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
14. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, electricity and telecommunications services to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.
15. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitably 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
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 unit and 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 *Planning Act 1999*) will not be able to be granted until such time as addressing is obtained."
17. 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 and Natural Resources 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. 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.
2. A "Permit to Work Within a Road Reserve" will be required from the Alice Springs Town Council before commencement of any work within the road reserves.
3. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5354 (surveylandrecords@nt.gov.au).
4. 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.
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. 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. 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 telecommunication 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. 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) 89994446.
10. The Northern Territory Subdivision Development Guidelines capture the technical standards to comply with for the construction of public infrastructure as part of subdivision works to the requirements of service authorities and local authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authority to confirm their requirements and any variations that may be sought to the Subdivision Development Guidelines to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>
11. Waste bin storage and collection shall be provided in accordance with Alice Springs Town Council requirements.
12. This permit will expire if one of the following circumstances applies:
 - (a) the development *and use 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.
13. The Department of Environment, Parks and Water Security advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. 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.
14. NT Portions 7393 and 7394 are 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

15. 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:

<https://ntepa.nt.gov.au/publications-and-advice/environmental-management>

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 FOR THE DECISION

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 LMR (Low-Medium Density Residential).

The proposed development and use requires consent under Clause 1.8 (When development consent is required). "Dwelling-group" (3+) is identified as 'merit assessable' under sub-clause 1(b)(i) of Clause 1.8 of the NTPS2020, and therefore pursuant to sub-clause 3 of Clause 1.10, the Development 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
- (b) any Overlays and associated requirements in Part 3 that apply to the land;
- (c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5
- (d) if an Area Plan in Part 2 applies to the land, any component relevant to a variation of requirements in Part 5

No Overlays apply to the site or type of development proposed. The Kilgariff Area Plan applies to the land but does not provide any guidance in relation to the variations to “Part 5” NTPS2020 requirements.

The zone purpose and outcomes of Clause 4.3 (Zone LMR (Low-Medium Density Residential)), and requirements listed in:

- Clause 5.2.2.1 (General Height Controls in Alice Springs);
 - Clause 5.2.4.1 (Parking Requirements)
 - Clause 5.2.4.4 (Parking Layout)
 - Clause 5.2.6 (Landscaping)
 - Clause 5.4.1 (Residential Density Limitations)
 - Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
 - Clause 5.4.3.1 (Additional Setback Requirements for Residential Buildings longer than 18 metres and for Residential Buildings over 4 storeys in Height)
 - Clause 5.4.6 (Private Open Space)
 - Clause 5.4.8 (Building Design for Dwelling-Group, Dwelling-Multiple, Rooming Accommodation and Residential Care Facility)
- are all relevant to the subject site and proposed “dwellings-group” development.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the NT Planning Scheme 2020 except for:

- Clause 5.4.1 (Residential Density Limitations)
- Clause 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures
- sub-clause 5 of Clause 5.4.6 (Private Open Space)

Subject to the receipt of amended drawings confirming fencing arrangements (i.e.: minimum 1.8m high, materials and positions of water meters) and compliance with conditions of approval, the proposed private open space arrangements will comply in full with all requirements of Clause 5.4.6 of the NTPS2020.

2. 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:*
 - (a) *The purpose and administration clauses of the requirement; and*
 - (b) *The considerations listed under Clause 1.10(3) or 1.10(4).*

- (a) Clause 5.4.1 (Residential Density Limitations)

Sub-clause 2 of Clause 5.4.1 specifies that the maximum number of dwellings-group that may be constructed on a Zone LMR site is 1 dwelling per 300m².

The application proposes 6 x dwellings-group on a 1750m² site (ie: 1 dwelling per 291.66m²).

Administratively, sub-clause 1 of Clause 5.4.1 provides that the Development Consent Authority may consent to a development that is not in accordance with sub-clause 2 (of Clause 5.4.1) - *only if it is satisfied it 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.*

<p><i>The purpose of Clause 5.4.1 is to - ensure that the development of residential buildings is:</i></p>	<p>The Development Consent Authority notes that:</p>
<p>(a) <i>of a density compatible with adjoining or nearby existing development or development reasonably anticipated</i></p>	<p>All buildings within Kilgariff Stage 1 are single storey and the subject site (two lots) are the only undeveloped parcels within the subdivision.</p> <p>Two properties adjoin the subject site:</p> <ul style="list-style-type: none"> - NT Portion 7392 – 1 x dwelling-single on 806m² Zone LR site - NT Portion 7395 - 1 x dwelling-single on 825m² Zone LR site <p>Nearby Zone LMR properties are:</p> <ul style="list-style-type: none"> - 2 Burrows Street (4 x single storey dwellings-group) – 1 dwelling per 360m² - 1 Cramer Street (4 x single storey dwellings-group) – 1 dwelling per 337.5m²
<p>(b) <i>of a density compatible with the existing or planned provision of reticulated services and community facilities which will service the area; and</i></p>	<p>Service authorities have not identified any issues that cannot be addressed via standard conditions on a Development Permit.</p>
<p>(c) <i>consistent with land capability having regard to relevant characteristics including but not limited to the drainage, slope, seasonal inundation, landforms or soil characteristics, heritage constraints or noise from aircraft operations.</i></p>	<p>None of these (listed) characteristics are applicable, the subject site is a vacant property within a recent urban subdivision.</p>

It is further noted that the:

- proposed design exceeds the maximum permitted density by 0.167 dwellings
- private open space of the proposed dwellings will not overlook the two adjacent properties (NT Portions 7392 and 7395)

- dimensions and truncation of the boundaries of the subject site were made to avoid underground reticulated services in the road reserve and therefore not burdening the site with an easement.
- road reserve of Welton Parade is 20m wide, providing significant separation to the occupants of dwellings on the east side of that street
- design of the development results in the occupants of NT Portion 7405 (Cawood Street) and NT Portion 7387 (Miethke Street) facing only one dwelling;
- Development Consent Authority had previously approved the same dwelling density variation for the site (Development Permit DP17/0486) albeit, without the carport included in the design.

It is considered that the proposed development and use is consistent with the purpose of Clause 5.4.1, and outcomes for Zone LMR. The design has otherwise been assessed as being generally compliant (subject to receipt of updated drawings) with all other prescriptive criteria contained in Part 5 of the NT Planning Scheme 2020.

(b) 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:*

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

Requirement 6(a) of this clause specifies that residential buildings and ancillary structures with external walls be set back a minimum of 6m from the primary street.

The nib walls (providing acoustic and fire separation between the dwellings) will be setback 4m from the primary street boundary (Welton Parade).

Sub-clause 3 of Clause 5.4.3 provides that - *the consent authority may consent to a development that is not in accordance with sub-clauses 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause 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 notes that:

- The non-complying setbacks relate to the ~0.2m wide nib walls and a section of roof eave, and in the context of the overall development of the site the reduced setbacks are considered to be minor;
- The walls are design features that provide visual interest to the proposed dwellings when viewed from the street and adjacent land and

assist with privacy screening and noise attenuation between the dwellings on the site;

- The proposed building line is consistent with the setbacks of other dwellings constructed on the western side of Welton Parade
- Subject to receipt of updated drawings all other building setback distances of the dwellings-group and carport comply with (or exceed compliance with) Clause 5.4.3.

The submitted drawings do not accurately show details of the proposed outbuildings (carport, verandahs and decks). Updated drawings (site plan, floor plan/s, roof plan, elevations, external finishes) are required showing building setbacks (including roof eaves and gutters) of outbuildings (carport, verandahs and decks) to demonstrate full compliance with sub-clause 6(a) of Clause 5.4.3 of the NTPS2020.

2. 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 proposed development of the dwellings-group. No filling of the site will be required and the site is a vacant property within a recently established residential subdivision. 1% AEP flood mapping indicates that the land is not liable to inundation and no overlays (Part 3 of NTPS2020) apply to the site.

Conditions and advisory notes included in a development permit may be expected to assist in ensuring appropriate management of erosion, dust and noise during construction. Conditions of approval will address the Alice Springs Town Council's requirements in terms of works/impact on the adjacent road reserves and storm water drainage.

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, in considering a development application the Development Consent Authority must take into account the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities or infrastructure to be provided by the developer for that purpose. The conditions of approval and advisory notes are intended to assist in ensuring:
 - Service authority interests are duly recognised in terms of storm water drainage, vehicle access, telecommunications, 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.

5. Pursuant to section 51(1)(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.

In considering the potential impact on amenity the Authority referred to the definition of amenity within the *Planning Act 1999* which states that “*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.”

Dwellings-group (3+) is an anticipated form of development within Zone LMR (Low-Medium Density Residential) under the NT Planning Scheme 2020 (NTPS2020). The design of the proposed dwellings is single storey and building setback and private open space dimensions are generally compliant with NTPS2020 requirements. The variation to the maximum permitted dwelling density by 1 dwelling (rounded up from 0.167) is considered relatively minor. As such, it is considered that any impact on the existing and future amenity of the area is likely to be low.

6. 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 no declared heritage places on the subject site or abutting land.

7. Amended drawings are required:
 - as the location of water meters were not shown on the publicly exhibited drawings and to ensure this infrastructure does not interfere with private open space boundaries and associated fencing arrangements
 - to achieve full compliance with the requirements of Clause 5.4.6 (Private Open Space) of the NT Planning Scheme 2020;
 - as the “building setbacks” of all proposed buildings and the boundary fencing arrangements to NT Portions 7393 & 7394 were not properly shown on the publicly exhibited drawings.
8. Notification of the application was undertaken in accordance with the requirements of the *Planning Act 1999* and *Planning Regulations 2000*. No public or local government council submissions were received during the statutory period.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

ITEM 2

PA2022/0046

OUTBUILDING (SHED/GARAGE AND ATTACHED VERANDAH) ADDITION TO INDEPENDENT UNIT WITH REDUCED BUILDING SETBACKS TO SIDE AND REAR BOUNDARIES

NT PORTION 2413 (28) MULLA MULLA ROAD, CONNELLAN

APPLICANT

Zone A Pty Ltd

Applicant – Stuart Chalmers (Zone A Pty Ltd) attended.

RESOLVED

9/22

That, the Development Consent Authority varies the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop NT Portion 2414 (28) Mulla Mulla Road, Suburb of Connellan, Alice Springs for the purpose of outbuilding (shed/garage and attached verandah) additions to dwelling-independent with reduced building setbacks to side and rear boundaries, subject to the following conditions and for the following reasons:

CONDITION 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) label the building materials, and external finishes of the shed/garage and verandah
 - (b) label the dimensions and building materials of the windows
 - (c) label the apex “building height”, the “ground level” of the development site and the proposed finished floor level of the outbuilding (NOTE: definitions of “building height” and “ground level” are listed in Schedule 2 of the NT Planning Scheme 2020).

Amended plans 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

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 and electricity services to the development shown on the endorsed plans in accordance with the authorities’ requirements and relevant legislation at the time.

NOTES

1. 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.
2. A "Permit to Work Within a Road Reserve" will be required from the Alice Springs Town Council before commencement of any work within the road reserves.
3. 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.
4. This permit will expire if one of the following circumstances applies:
 - (a) the development *and 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.
5. The Department of Environment, Parks and Water Security advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. 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.
6. NT Portion 2414 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) 89994446

REASONS FOR THE DECISION

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 NT Planning Scheme 2020 applies to the land which is in Zone RL (Rural Living).

Sub-clause 1(b)(ii) of Clause 1.8 (When development consent is required) states that - *use and development requires consent and is merit assessable when it is shown as "permitted" on the relevant zoning assessment table in "Part 4" but:*

- (1) *requires consent by virtue of an Overlay as set out in "Part 3"; or*
- (2) *does not comply with the relevant development requirements set out in "Part 5".*

The "dwelling-single" and "dwelling-independent" are listed as a permitted land uses in Zone RL (the "dwelling-independent" development was approved through Development Permit DP13/0707), the proposed development of an "outbuilding" (shed/garage with attached verandah) requires consent as:

- the building setback distances to the side and rear boundaries do not comply with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).
- the Land Subject to Flooding overlay (Clause 3.6) applies to the part of the subject site where the "outbuilding" will be constructed, and in the circumstances of the site and proposed development, sub-clause 2 of Clause 3.6 is not applicable.

Sub-clause 3 of Clause 1.10 (Exercise of Discretion by the Consent Authority) specifies that - in considering an application for consent for a use or development that is 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 Part 5.*

- Clause 5.2.2.1 (General Height Controls in Alice Springs);
- Clause 5.2.4.1 (Parking Requirements)
- Clause 5.2.6 (Landscaping)
- Clause 5.4.1 (Residential Density Limitations)
- Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
- Clause 5.4.6 (Private Open Space)

are all considered relevant to the subject site and proposed development of an "outbuilding" addition.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the NT Planning Scheme 2020 except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

- (b) any Overlays and associated requirements in Part 3 that apply to the land;

The following overlays apply to the subject site:

Clause 3.2 (CNV - Clearing of Native Vegetation)

The proposed development and use complies with the purpose and requirements of this clause as no “native vegetation” will need to be cleared from the site as part of the proposed works.

Clause 3.6 (LSF - Land Subject to Flooding)

Current overlay and flood mapping indicates the site as being liable to inundation in a 1% AEP defined flood event (riverine flooding - Todd River) and the “outbuilding” will be constructed in this flood liable area. Pursuant to sub-clause 4(a) of Clause 3.1 and sub-clause 1 of Clause 3.6 the “outbuilding” requires consent and is merit assessable.

The proposed development and use complies with the requirements listed in sub-clause 6 of Clause 3.6 as:

- the development is a “outbuilding”
- the building contains no “habitable rooms”
- the application indicated that no fill will be required to achieve required floor levels
- the design and structural suitability of the building will be assessed as part of the building certification process.

Therefore, the development is considered to be consistent with the purpose of Clause 3.6.

- (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; and

The purpose of Zone RL is to - *provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.*

The zone outcomes relevant to the application are:

1. *Predominantly dwellings-single and dwellings-independent within a rural lifestyle setting*
7. *The design and site layout of all development are sympathetic to the existing streetscape, scale and character of surrounding development.*
8. *Development does not impose unsustainable demands on surface water and groundwater.*

The site area is 2.01ha, the “outbuilding” will be ancillary to the existing “dwelling-single” and “dwelling-independent”. The site is already connected to reticulated electricity and water services and an existing kerb crossover and driveway will be retained. The proposed development is consistent with the site coverage, building setbacks and built form of other Zone RL sites in the locality.

- (d) if an Area Plan in Part 2 applies to the land, any component relevant to a variation of requirements in Parts 5 or 6.

No Area Plan/s apply to the subject site or locality.

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.

Administratively, the Development Consent Authority may consent to a development that is not in accordance with the building setback requirements of Clause 5.4.3 if the variation satisfies:

- a) the purpose of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures); and
- b) the zone purpose and outcomes of Zone RL (Rural Living).

A variation to Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) to allow the reduced building setbacks (4.5m to side and rear boundaries instead of 10m) is considered to be appropriate to the site and consistent with the outcomes of Zone RL and purpose of Clause 5.4.3 for the following reasons:

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;*
- The Development Consent Authority notes that:**
- Mulla Mulla Road and adjacent lots has a mixed character of dwelling densities, dwelling/outbuilding designs/floor areas and vegetation coverage for each lot.
- Large (existing) outbuildings on abutting sites to NT Portion 2414 include:

NT Portion 2413 (29 Mulla Mulla Road)

- 6.2m (apex) gable roof design
- 24m x 15m (360m² floor area)
- ~6m building setback to rear (east) boundary.
- Side (NT Portion 2414) setback complies

NT Portion 6082 (102 Heffernan Road)

- ~7m (apex) gable roof design
- ~650m² (floor area)
- building setbacks comply

NT Portion 4312 (43 Chateau Road)

- 3.6m (apex) gable roof design
- 9.1m x 22m (200.2m² floor area)
- compliant building setbacks

- The location of the proposed building on NT Portion 2414 is ~76m from the street boundary. The reduced side and

- rear setbacks will not be noticeable when viewed from the street.
- The height, building materials, architectural style and floor area of the proposed shed and verandah are likely to be consistent with other structures on adjacent and nearby properties (updated/detailed drawings will be able to confirm this).
 - Structures on adjacent properties generally have compliant building setbacks to side boundaries.
 - The wall height will be 4.45m above finished ground level
 - 9m wall facing north boundary is compatible with shed built on NT Portion 2413
- (b) *minimises adverse effects of building massing when viewed from adjoining land and the street;*
- The structure is single storey and complies with building height requirements
 - No windows will face the rear (east boundary)
 - 3 windows will face the north (NT Portion 2413) side boundary
 - NT Portion 2413 (property to north) has a shed built in the south east corner of that site
 - Details of building materials and colours are not labelled on the elevations
- (c) *avoids undue overlooking of adjoining properties; and*
- (d) *facilitates breeze penetration through and between buildings.*
- The design of the outbuilding includes an open sided verandah.

The proposed outbuilding is considered to be consistent with the purpose of Clause 5.4.3, with regards to the “*location, scale, impact on adjoining and nearby property*”:

- the outbuilding will be located:
 - in the north east corner of the subject site (a 2.01ha RL zoned property);
 - adjacent to a similar sized shed on NT Portion 2413
 - ~76m from the street boundary (Mulla Mulla Road)
 - ~70m from the dwelling-single on NT Portion 4314
 - In an area of the site that has established vehicle access and logistically easier to be connected to water and electricity supply
 - so as not to interfere with established landscaping associated with the dwelling-independent
- the scale of the building:
 - is consistent with the floor areas, height, building materials and building setbacks of other sheds and garages in the Mulla Mulla Road locality
 - has been selected by the applicant so that the building is of adequate size for domestic storage purposes (including a caravan)
- the impact on the adjoining and nearby property is expected to be minimal as:

- abutting land owners were notified of the application and no public submissions were received
- the proposed outbuilding will mirror an existing shed/garage constructed on NT Portion 2413 (abutting property to the north)
- on NT Portion 4314 (abutting property to the east) there are outbuildings located between the shared boundary and dwelling-single (which will assist in screening views from occupants of the dwelling-single on NT Portion 4314)

The proposed development and use is consistent with:

- The purpose of Zone RL (Rural Living) which is to - *provide for a range of rural lifestyle choices and rural activities, in areas where access to reticulated water and sewerage may not be available.*
 - relevant Zone Outcomes for RL including:
 1. *Predominantly dwellings-single and dwellings-independent within a rural lifestyle setting.*
 7. *The design and site layout of all development are sympathetic to the existing streetscape, scale and character of surrounding development.*
2. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the Development Consent Authority must, in considering a development application, 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 identified as being liable to inundation in a 1% AEP Defined Flood Event, however, the building does not contain any “habitable rooms” and will be constructed without the need for substantial fill. The site and surrounding area has been developed for rural residential purposes for over 30 years. As such, the land is considered capable of supporting the proposed development. The Department of Environment, Parks and Water Security did not comment on the proposal.

3. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the Development Consent Authority must, in considering a development application, 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 conditions of approval and advisory notes are intended to assist in ensuring:

- Service authority interests are duly recognised in terms of connections to and upgrading of reticulated water supply and electricity service/s that apply to the development of a verandah and shed/garage addition to the dwelling-independent; and

- The NTPS 2020 objectives and development performance criteria relating to the provision of services/infrastructure will be complied with.
4. Pursuant to section 51(1)(n) of the *Planning Act 1999*, in considering a development application the 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.

The development application is solely for the purpose of seeking consent to build structure/s ancillary to an existing dwelling-independent less than the minimum distance from the side and rear lot boundaries. By the nature of the design of the development proposed and its intended use, there will not be a significant effect on the existing and future amenity of the locality.

5. Notification of the application was undertaken in accordance with the requirements of the *Planning Act 1999* and the *Planning Regulations 2000*. No public or local government council submissions were received.
6. Amended drawings are required:
 - as the drawings included with the application did not show details of building materials and colours
 - to verify the finished floor level of the building in relation to the “ground level” of the development site and the amount of fill that may be required.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

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

SUZANNE PHILIP

Chair

14 April 2022