



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 144 – WEDNESDAY 11 MAY 2011

**CROWNE PLAZA ALICE SPRINGS
BARRETT DRIVE**

MEMBERS PRESENT: Peter McQueen, Sandy Taylor and Libby Prell

APOLOGIES: John McBride and Brendan Heenan

OFFICERS PRESENT: Peter Somerville, Sally Cunningham, Ben Taylor and Melissa Pascual
(minutes)

COUNCIL REPRESENTATIVE: Mark Pierson

Meeting opened at 9:45am and closed at 10:45am

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 – LOT 9197, 103 SMITH STREET , SUBURB OF
CICCONE, TOWN OF ALICE SPRINGS
EXCAVATION AND FILLING OF LAND
GHAN ESTATE PTY LTD**

Christopher Smyth and John McEwen attended the meeting. and tabled a letter detailing the current status of development.

RESOLVED That pursuant to section 53(b) of the *Planning Act*, the Development Consent
0040/11 Authority alter the proposed development and consent to the proposed
development as altered to develop Lot 9197, 103 Smith Street, Suburb of
Ciccone, Town of Alice Springs for the purpose of bulk earthworks (including
the placement of fill), subject to the following conditions and for the following
reasons:

CONDITIONS

1. Drawings to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the drawings will be endorsed and will then form part of this permit. The drawings must be drawn to scale with dimensions and two copies must be provided. The drawings must show:
 - a) the extent of filling to the site and all proposed finished levels to Australian Height Datum (AHD)
 - b) details of any retaining walls
2. 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.
3. Any hazardous material and/or soil must be removed from the site and disposed of in accordance with relevant health and safety requirements, to the satisfaction of the consent authority. Documentation (to the satisfaction of the consent authority) shall be presented from a suitably qualified person certifying that there no hazardous material has been used as fill on the site.
4. All works requiring filling with appropriate soil type(s), together with any retaining walls are to be designed, supervised and certified on completion by a practicing and registered Civil Engineer, confirming that the land is suitable for the intended industrial use and development, in accordance with Australian Standard AS3798: Guidelines on earthworks for commercial and residential developments, to the satisfaction the consent authority.

5. Pursuant to section 34 of the Land Title Act, a Caution Notice shall be lodged with the Registrar General on the title of Lot 9197, Town of Alice Springs to include the following advice on the lot indicated on the endorsed drawings. The Caution Notice is to state: 'Landfill Site'. Evidence of lodgement on the parcel shall be provided to the satisfaction of the consent authority.
6. Storm water 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.

NOTES:

1. A "Permit to Work within a Road Reserve" may be required from the Alice Springs Town Council before commencement of any work within the road reserve.
2. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the Aboriginal Sacred Sites Act. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
3. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction (excavation and filling) phase of the development are available from Natural Resources Management Division, Department of Natural Resources, Environment, the Arts and Sport.
4. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentsouth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. Subject to the receipt of amended plans and compliance with conditions of approval, the proposal is generally consistent with the following clauses and objectives of the NT Planning Scheme:
 - Clause 2.4 (Specific Uses), the purpose of Specific Use zone SA4 is to facilitate the use and development of the land for light industrial purposes while ensuring a level of visual amenity appropriate to the location. The proposal will enable the

- preparation of additional parcels of land within the locality and is therefore consistent with the zoning objective.
- Clause 6.16 (Excavation and Fill) the purpose of which is to ensure that the excavation or filling of land does not adversely affect adjacent land or waters, or the quality of adjacent waterways, and associated riparian areas and is suited to the intended future use of the site.
2. Pursuant to section 51(e) of the *Planning Act*, 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*. A submission was received from the Alice Springs Town Council (a local authority) made a written submission about the application. The matters raised in the Alice Springs Town Council submission and evidence given at the consent authority meeting were noted by the consent authority and the conditions of approval are intended to ensure Councils interests as a local authority and service authority are duly recognised.
 3. Pursuant to section 51(j) of the *Planning Act*, 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 requirement for a Caution Notice is considered necessary to appropriately ensure that future land owners are aware of the state of the land.

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

ITEM 2 RE-CONSIDERATION – LOTS 662 & 654 ,12 SOUTH TERRACE & 8 BREADEN STREET, SUBURB OF THE GAP , TOWN OF ALICE SPRINGS CHANGE OF USE FROM MOTEL TO MULTIPLE DWELLINGS (14 X 1 BEDROOM AND 15 X 2 BEDROOM SINGLE STOREY DWELLINGS ZONEA PTY LTD

Stuart Chalmers (Zone A Pty Ltd), Terry Weeks and Pat Black (directors of ASIT Investments Pty Ltd) attended the meeting, plans and documents were tabled in support of the application.

RESOLVED 0041/11 That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Lots 654 & 662, South Terrace / Breaden Street / Hayes Street, Suburb of The Gap, Town of Alice Springs for the purpose of change of use from Motel to Multiple Dwellings (14 x 1 bedroom and 15 x 2 bedroom single storey dwellings) for the following reasons:

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.
 - a) The proposal does not achieve the purpose of Clause 6.5.1 (Parking Requirements) of NT Planning Scheme, being to ensure that sufficient off-street car parking, constructed to a standard and conveniently located is provided to service the proposed use of the site.
 - b) Having considered the requirements of Clause 6.5.2 (Reduction in Parking Requirements) of the NT Planning Scheme, a reduction to the car parking required by Clause 6.5.1 (Parking Requirements) is not supported as:
 - No evidence is provided, in the form of a traffic assessment or car parking study to support the argument that the provision of 1 bedroom dwellings should not incur a requirement of 2 car parking spaces, as stipulated in the NT Planning Scheme
 - The shortfall in available on-site car parking bays is considerable, providing just 75.8% of the requirement which is evidence of the proposed change of use being an overdevelopment of the site.
 - c) The proposed change of use is not consistent with the objective and performance criteria of Clause 6.14 (Land Subject to Flooding and Storm Surge) of the NT Planning Scheme. Finished floor levels of habitable rooms are approximately 500mm below the anticipated water level associated with a 1.0% AEP flood event. The proposed change of use of the site to multiple dwellings, with finished floor levels of habitable rooms below the 1.0% AEP flood level is a risk to people, property and the wider community. No measures to improve the existing buildings to mitigate the flood risk or damage caused by flood have been demonstrated in the application apart from a stated agreement to tile floors, raise power points and have a caution notice placed on the title.
 - d) The proposal does not comply with the density control given by Clause 7.1 (Residential Density and Height Limitations) of the NT Planning Scheme and the change of use to multiple dwellings is considered to be an overdevelopment, not giving adequate consideration to the constraints of the subject site. The site has an area of 4980m², Table C to Clause 7.1 gives a density control for single storey buildings at 400m² for multiple dwellings. Based on Clause 7.1 the proposed development (change of use) of the motel into 29 multiple dwellings would require a site area of 11600m². This means that the dwelling density exceeds what is

allowable by the Northern Territory Planning Scheme by 57.07% (6620m² or 16.5 dwellings). Service authority comments indicate that the proposed change of use is compatible with the existing and planned provision of reticulated services which service the area as per the purpose of the clause. The inability of the development to comply with the density control is rather an indication of further non compliances with Part 4 of the NT Planning Scheme. No special circumstances which merit the granting of consent by the Authority have been demonstrated, as per Clause 2.5 (Exercise of Discretion by the Consent Authority) in this regard.

e) The consent authority (at its meeting on 11 May 2011) noted that reference to Clause 7.3 (Building Setbacks of Residential Buildings) of the NT Planning Scheme contained in the report prepared by Development Assessment Services was incorrect in it's reference to:

- the wall of proposed Unit 24 not being able to comply with the minimum building setback distance to Broaden Street (secondary street), it should have referred to Units 23 and 25.
- The wall of proposed Units 6 and 7 not being able to comply with the minimum building setback distance to Hayes Street (secondary Street).

non compliance of the existing buildings with Clause 7.3 (Building Setbacks of Residential Buildings) of the NT Planning Scheme was not an overriding or determining factor of the consent authority in making its decision.

f) With the exception of Units 2, 3 and 25, the proposal does not comply with Clause 7.5 (Private Open Space) of the NT Planning Scheme, as all proposed dwellings require one or more variations to the minimum dimension or area requirements of the clause, also indicating the proposal's inability to provide for adequate access to natural light, not being of an adequate size to provide for domestic purposes or enabling an extension of the function of the dwelling. No private open space has been provided to Unit 29. No special circumstances which merit the granting of consent by the authority have been demonstrated as per Clause 2.5 (Exercise of Discretion by the Consent Authority) in regard to the areas of non compliance.

g) The proposal does not comply with the requirements of Clause 7.6 (Communal Open Space) of the NT Planning Scheme. The site plan identifies an area of approximately 187m² as being set aside for communal open space. This area in itself equates to only 3.9% of the site area. If other communal landscaped and pathway areas are included, the communal space equates to 9% of the site. Quality areas of communal open space are considered necessary for the following reasons:

- The proposed dwelling density (29 dwellings)
 - The absence of quality private open space areas for dwellings on the site
 - The design of the communal open space area does not demonstrate consideration of the need to maintain reasonable privacy of nearby dwellings, provision of landscaping and shade and safety issues including lighting and informal surveillance.
 - The communal open space shown on the submitted drawings is not considered to be suitable to provide for a wide range of activities due to the area provided being too small. For example it is considered that inadequate space has been provided for barbeque facilities, communal seating or areas suitable for the needs of children.
 - It is noted that the site is in relatively close proximity to the Todd River. However, facilities such as barbeques, open space suitable for children's play and communal seating are not considered to be in the immediate proximity of the site and the proximity of the river does not justify a failure to provide such facilities on the site.
- h) The development does not meet the purpose of Clause 7.8 (Building Design for Multiple Dwellings, Hostels and Supporting Accommodation) of the NT Planning Scheme which states that proposals should promote site responsive designs for multiple dwellings that are pleasant for the occupants and do not unreasonably affect the use and enjoyment of adjacent land. The design presented does not allow for adequate access to natural light and ventilation, does not minimise the transmission of noise between dwellings and does not demonstrate that proposed air conditioners will be in locations accessible for servicing and concealed from view. Units 1 and 29 contain little to no private open space and feature windows facing directly onto driveway and car parking areas. The application contains no measures to mitigate any potential adverse amenity impacts of noise, artificial light to these dwellings.
- i) The proposal is inconsistent with the Community Safety Design Guide (which must be considered by virtue of clause 2.8 (Reference to Guidelines) of the NT Planning Scheme), a key objective of which is "to ensure that development contributes to the safety of areas by optimising the opportunities to provide passive surveillance of public spaces, communal areas, streets and car parks". All street frontages are screened with 1.8m (or higher) solid (not visually permeable) fencing negating any opportunities for passive surveillance of public spaces, and in the case of Units 1-5 and 25-29, fencing to private open space obstructs surveillance opportunities to communal open space areas and the street.

- j) In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the consent authority may consent to the development of land that does not meet the standard set out in Part 4 only if it is satisfied that special circumstances justify the giving of consent. After taking into consideration the application and the evidence presented by the applicant at the 11 May 2011 DCA meeting, the consent authority is of the opinion that no special circumstances have been demonstrated to justify the variations sought (for Part 4 of the Scheme), and as such the application is refused.
2. Pursuant to section 51(e) of the *Planning Act*, 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*. A submission was received from the Alice Springs Town Council (a local authority) made a written submission about the application. The matters raised in the Alice Springs Town Council submission and evidence given at the consent authority meeting were noted by the consent authority
 3. Pursuant to section 51(n) of the *Planning Act*, 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 design gives a poor amenity outcome for future (permanent) occupants of the multiple dwellings (in particular the one bedroom dwellings) and for the surrounding area in terms of proper streetscape presentation, natural light, ventilation and access to and quality of private and communal open space. The poor amenity outcomes for future residents and the lack of proper presentation to the street also confirm that the proposal is inconsistent with the relevant objectives of the NT Planning Scheme and lacks sufficient merit.
 4. Pursuant to section 51(j) of the *Planning Act*, 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 level of non-compliances against the Planning Scheme, and especially the inability of the proposal to provide adequately dimensioned and functional private and communal open space areas show that the constraints of the site have not been overcome through the current density and design.
 5. Pursuant to section 51(p) of the *Planning Act*, in considering a development application, the consent authority is required to take into account the public interest. The Development Consent Authority

acknowledges that provision of appropriate and affordable housing choice is in the public interest, nonetheless, on balance it is considered that the proposed multiple dwelling use of the site (as presented in the application) that does not comply with the objectives and standards for residential buildings set out in Part 4 of the NT Planning Scheme is not in the public interest. Furthermore, the change of use of the site from motel to multiple dwellings does not comply with the performance criteria contained in Clause 6.14 (Land Subject to Flooding and Storm Surge) of the NT Planning Scheme and the proposal is contrary to the public interest as permitting multiple dwelling use of land that is below the 1%AEP flood level increases the risk to people, damage to property and costs to the general community caused by flooding.

ACTION: DAS to prepare a Notice of Refusal

**ITEM 3 DEVELOPMENT – LOT 756, 5 LINDSAY AVENUE , SUBURB OF EAST SIDE, TOWN OF ALICE SPRINGS
CARPORT ADDITION TO EXISTING MULTIPLE DWELLING (UNIT 1) WITH REDUCED BUILDING SETBACK TO FRONT BOUNDARY
DANIELLE LOY**

The applicant did not attend the meeting.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme and pursuant to section 53(a) of the *Planning Act* consent to the proposal to develop Lot 756, Unit 1, 5 Lindsay Avenue, Suburb of East Side, Town of Alice Springs for the purpose of a carport, subject to the following conditions:

0042/11

CONDITIONS

1. Works carried out under this permit shall be in accordance with the plans endorsed as forming part of this permit.
2. Storm water 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.

NOTE:

This development permit does not grant "building approval" for a development or use. You are advised to contact a registered private building certifier to ensure that you have attained all necessary approvals before commencing construction or the approved use. The Building Advisory Services Branch (89519235), Department of Lands and Planning may also be able to advise you with regard to Building Permit requirements.

VARIATION

Clause 7.3 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme to allow a carport with a reduced building setback distance to the front property boundary.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the Development Consent Authority must take into consideration the planning scheme that applies to the land to which the application relates. A variation is granted to the requirements of Clause 7.3 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme as the proposed carport will be partially screened by existing mature landscaping and proposed fencing, the structure will shade an existing car parking area and is considered to be compatible with the streetscape and surrounding developments.
2. The conditions of approval are intended to assist in ensuring the orderly servicing and development of the site.
3. The application was placed on public exhibition in accordance with the requirements of the *Planning Act* and *Planning Regulations*. No public submissions were received during the exhibition period.

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

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



PETER McQUEEN
Chairman

23 /5/11