

DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

12 April 2023

ROPER ROOM, 1ST FLOOR GREENWELL BUILDING 50 BATH STREET ALICE SPRINGS

MEMBERS PRESENT: Suzanne Philip (Chair), Chris Neck, Deepika Mathur, Allison Bitar,

Matt Paterson

APOLOGIES: NIL LEAVE OF ABSENCE: NIL

OFFICERS PRESENT: Chay Garde, James Calder, Kieran Marsh, Jennie Ryan,

Kimberley Muller

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 9:00am and closed at 10:25am

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 TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 PA2023/0023

CHANGE OF USE (UNIT 1) TO EDUCATION ESTABLISHMENT

LOT 5775, Unit 1, (8) GREGORY TERRACE, TOWN OF ALICE SPRINGS

APPLICANT

James Thomas

The applicant did not attend the meeting.

RESOLVED 06/23

That, pursuant to section 53(b) of the *Planning Act 1999*, the Development Consent Authority alter and approve the proposed development and consent to the proposed development as altered to develop Lot 5775, Unit 1 (8) Gregory Terrace, Town of Alice Springs, for the purpose of education establishment (office and classrooms).

That, the Development Consent Authority vary the requirements of Clauses:

- 5.2.4.1 Car Parking Spaces
- 5.2.6.2 Landscaping in Zone CB
- 5.5.15. Design in Commercial and Mixed Use Areas
- 5.9.1.3 Active Street Frontages in Alice Springs Town Centre

of the Northern Territory Planning Scheme, and pursuant to section 53(b) of the *Planning Act 1999*, consent to the application to develop Lot 5775 (8) Gregory Terrace, Town of Alice Springs for the purpose of change of use (Unit 1) to an education establishment (classrooms and ancillary office), subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of the use and any associated 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 "drawings - Unit 1_8 Gregory Terrace - change of use" as submitted in application PA2023/0023 but modified to show:

Additional landscaping (planter boxes) in common property along Gregory Terrace.

GENERAL CONDITIONS

- 2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit. The use and/or development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
- 3. Before the use or occupation of the development starts, the area 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 and provide safe and convenient parking;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained sufficiently so as to prevent the pooling of water;

- (e) line marked to indicate each car space and all access lanes;
- (f) developed with a wheel stop at each car space;
- (g) clearly marked to show the direction of traffic along access lanes and driveways, and
- (h) clearly marked to show pedestrian access and egress points to the satisfaction of the consent authority.
- 4. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the occupants of the development and their (visitors/clients).
- 5. The landscaping shown on endorsed plans PA2021/0323/1 to PA2021/0323/11 must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
- 6. Before the use commences, in accordance with section 70(5) of the Planning Act 1999, written confirmation must be provided confirming that a monetary contribution, in-lieu of providing one (1) car parking space, has been paid to the Alice Springs Town Council. The contribution is to be calculated in accordance with the requirements of section 70(6) of the *Planning Act 1999*.
- 7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.
- 8. Provision must be made on the land for the storage and collection of garbage and other solid waste. All waste storage and collection areas must be effectively visually screened from the adjacent streets.
- 9. 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.
- 10. No more than 35 students may attend the educational establishment at one time.
- 11. Any commercial kitchen associated with the education establishment is to be located offsite.

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 (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.
- 2. 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.
- 3. This development permit is not an approval to undertake building work or a change of use. 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 construction works or operating the use.

- 4. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the Building Act 1993.
- 5. A "Permit to Work within a Road Reserve" may be required from Alice Springs Town Council before commencement of any works within the road reserve.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the Planning Act 1999, 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 (NTPS2020) applies to the land and education establishment requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8.1(b)(i) (as it does not comply with sub-clause 3 of Clause 5.5.1.1), therefore, the following need to be considered:

- the strategic framework (Part 2 of the Scheme), including the Alice Springs Regional and Use Plan and Central Alice Springs Area Plan,
- Zone purpose and outcomes of Clause 4.10 Zone CB (Central Business), and Clauses:
- 5.2.1 General Height Control
- 5.2.4.1 Car Parking Spaces
- 5.2.4.4 Layout of Car Parking Spaces
- 5.2.6.2 Landscaping in Zone CB
- 5.5.1.1 Interchangeable Use and Development in Zone CB
- 5.8.2 Education Establishment
- 5.5.15 Design in Commercial and Mixed Use Areas
- 5.9.1 Alice Springs Town Centre

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

- 5.2.4.1 Car Parking Spaces
- 5.2.6.2 Landscaping in Zone CB
- 5.5.15 Design in Commercial and Mixed Use Areas
- 5.9.1.3 Active Street Frontages in Alice Springs Town Centre
- 2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 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).
- 3. The proposal has been found not to be in accordance with Clause 5.2.4.1 Car Parking Spaces because the proposal will result in fewer car parking spaces than what is required by the NTPS2020. The proposal is required to provide 12 car parking spaces onsite for the net floor area of the site to be used as education establishment, where

only 3 car parking spaces have been made available for the exclusive use of the education establishment.

It is considered that a variation to this clause and reduction in parking is appropriate in this instance and the requirement to provide a payment to council in-lieu of the construction of 1 car park is also appropriate in this instance because:

- The proposal is consistent with sub-clause 2 of Clause 5.2.4.1 Car Parking Spaces which allows for the consent authority to "consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction in the number of car parking spaces is appropriate with regard to: (a) the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land; (b) the provision of car parking spaces in the vicinity of the land; (c) the availability of public transport in the vicinity of the land; and (d) the potential impact on the surrounding road network and the amenity of the locality and adjoining property;". The application has demonstrated that a reduction of 8 spaces is appropriate due to the zoning of the land, the proposed use and the availability of alternative car parking spaces and public transport access in the vicinity of the land.
- In their comments, ASTC expressed concern with the proposed lack of car parking
 provision and have requested payment in-lieu of construction so as to support the
 implementation of the Alice Springs Town Council Parking Contribution Plan
 2009. The requirement to pay an in-lieu amount for one additional off site car park
 has been imposed. Improving parking offsite is considered a reasonable alternative
 as the scope for additional parking on lot 5775 is constrained.
- 4. The proposal has been found not to be in accordance with Clauses 5.2.6.2 (Landscaping in Zone CB) because the application does not demonstrate areas of landscape planting equivalent to 10% of the site area (outlined in sub-clause 3).
 - It is considered that a variation to this clause is appropriate in this instance as the consent authority may consent to a development that is not in accordance with subclause 3 if the development provides an alternative to achieve the purpose of the clause. Recognising that this application only applies to approximately 16% of the building footprint, that landscaping has been improved via previous development approvals on the site and that the overall maintenance of previously approved landscaping across the site is also included as a condition for this permit, the addition of landscaping by plantings (planter boxes) in the common area along Gregory Terrace will go towards achieving the purpose of the clause by minimising heat capture and enhancing the visual amenity of the area.
- 5. The proposal has been found not to be in accordance with Clause 5.5.15 (Design in Commercial and Mixed Use Areas) as the car parking area and open expanses of pavement are not shaded by landscaping and/or shade structures (sub clause 16).
 - It is considered that a variation to this clause is appropriate in this instance as the consent authority may consent to a development that is not in accordance with subclause 16 if it is satisfied that the development provides an appropriate level of shading that reduces heat capture of paved surfaces, having regard to the location of the site and scale of the development. As the development is an existing development with existing landscaping and street trees between the car parking area and public footpath and has a covered verandah over much of the site frontage.
- 6. The proposal has been found not to be in accordance with Clause 5.9.1.3 (Active Street Frontages in Alice Springs Town Centre) as less than 75% of the site boundary is active street frontage (sub-clause 5).

It is considered that a variation to this clause is appropriate in this instance as the consent authority may consent to a development that is not in accordance with subclause 5 if satisfied that the site design reflects the established character of the area. As the site is existing it can be considered to reflect the established character.

- 7. The considerations listed under Clause 1.10(3) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020 except for the Clauses listed above. The proposal, with the conditions as included in this permit, will meet the other relevant requirements as set out in Part 5 of the NTPS2020 and comply with the Purpose and Outcomes of Zone CB.
- 8. Pursuant to section 51(1)(j) of the Planning Act 1999, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The land is capable of supporting the likely increased visitation of the site and increase demand for power as a result of the change in use. The financial contribution to Council in-lieu of constructing an additional car parking space will go towards offsetting the impact the potential increased use of the site will have on the surrounding road network. The condition to upgrade the onsite car parking area is in line with other development consent granted to changes of use on the site and will ensure the safe, functional and convenient operation of the car parking area for pedestrians and vehicles.

9. Pursuant to section 51(1)(n) of the Planning Act 1999, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The increased pedestrian activity as a result of the education establishment operating out of a vacant unit is anticipated to positively contribute to the amenity of the area by further activating the site.

FOR: 5 AGAINST: 0 ABSTAIN: 0

ACTION: DAS to prepare Notice of Consent and Development Permit

ITEM 2 PA2023/0040 SUBDIVISION TO CREATE THREE LOTS

LOT 9191 (90) HEATH ROAD, SUBURB OF KILGARIFF

APPLICANT

Ekistica Pty Ltd - Jonathan Lines

Applicant Jonathan Lines (Ekistica Pty Ltd) and Adrian Mitchell Business Service Manager (Centre for Appropriate Technology) attended the meeting and spoke further to the application.

RESOLVED 07/23

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 9191 (90) Heath Road, Kilgariff,

Town of Alice Springs for the purpose of subdivision into 3 lots, subject to the following conditions:

GENERAL CONDITIONS

- 1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
- 2. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Alice Springs Town Council.
- 3. The owner of the land must enter in to agreements with the relevant authorities for the provision of water supply, and electrical facilities, and telecommunication networks to each lot shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 1, 3 and 4 for further information.
- 4. 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. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.
- 5. The owner shall:
 - (a) remove disused vehicle crossovers;
 - (b) collect stormwater and discharge it to the drainage network; 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.
- 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 access to each lot and the public street, in accordance with the requirements of Alice Springs Town Council, to the satisfaction of the consent authority.
- 7. The kerb crossovers and driveways to each lot approved by this permit are to meet the technical standards of Alice Springs Town Council, to the satisfaction of the consent authority.
- 8. Any proposed work (including the provision or connection of services) within, or impacting upon the Heath Road road reserve shall be in accordance with the standards and specifications of the Alice Springs Town Council. Design documents must be submitted to the Council for approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
- Before the issue of titles, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority on advice from the Northern Territory Fire and Rescue Service.

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. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities 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/
- 3. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
- 4. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at:

http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new developments/builders-designers.html

- 5. A "Permit to Work Within a Road Reserve" may be required from Alice Springs Town Council before commencement of any works within the road reserve.
- 6. The Surveyor-General advises you should immediately make application for street addresses to the Survey and Land Records unit on (08) 8995 5346 (surveylandrecords@nt.gov.au).
- 7. All land in the Northern Territory is subject to the Weeds Management Act 2001 (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection.
 - Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to weedinfo@nt.gov.au
- 8. 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.
- 9. 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

- 10.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.
- 11.Lot 9191 is located within the Alice Springs Erosion Hazard Area as declared under the *Soil Conservation and Land Utilisation Act 1969*. The landholder must not undertake activities that will cause or exacerbate erosion associated with wind or water and must manage groundcover to ensure effective dust control. For further information, contact the Land Development Coordination Branch: (08) 8999 4446.
- 12.Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at 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.
- 13. Please be aware that the land title over lot 9191 includes non-lapsing caveats. The Development Consent Authority recommends that the permit holder undertake their own due diligence.

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 (NTPS2020) applies to the land which is zoned CP (Community Purpose).

The proposed subdivision requires consent under Clause 1.8 (When development consent is required) and Clause 6.1.1 of the NTPS2020. It is identified as *Impact Assessable* under sub-clause (1)(c)(ii) of Clause 1.8, therefore, the:

- Strategic Framework (Part 2),
- Overlays (Part 3),
- Zone Purpose and Outcomes of Zone CP (Community Purpose) (Part 4); and
- Subdivision and Consolidation Requirements (Part 6)

need to be considered by the consent authority.

The 'Editor's Note' included within Clause 6.1 specifies that - Zones not mentioned in Part 6 do not have minimum subdivision requirements, and should respond to the relevant zone purpose and outcomes and the Strategic Framework. The subject site is zoned CP which is not referenced in "Part 6" of the NTPS2020.

The proposal was considered with regard to the:

- Alice Springs Regional Land Use Plan 2016 (ASRLUP); and
- Kilgariff Area Plan 2019

which area relevant components of the Strategic Framework. The proposed subdivision is not expected to have any adverse impact in terms of the objectives of the ASRLUP or the Area Plan.

Clause 3.2 (CNV – Clearing of Native Vegetation) of the NTPS2020 is relevant Overlay. Minimal civil works within the site will be required as part of the proposed subdivision. Any clearing of "native vegetation" on the site is likely to be restricted to creation and maintenance of firebreaks and boundary fencing. Such works are likely to comply with the exemption criteria listed in sub-clause 4 of Clause 3.2.

Clause 3.6 (LSF - Land Subject to Flooding) of the NTPS2020 is an applicable Overlay, as parts of the site is within the defined flood area for a 1% AEP flood event. Given the location of the 2 proposed lots (A & B) on the outside of the areas of Lot 9191 affected by the flood Overlay and the remainder of Lot 9191 on the flood fringe, flood velocity and height is expected to be negligible. The existing dwelling-caretaker on "Lot C" (residual parcel) is located on a portion of the site that modelling indicates will not be inundated.

The subdivision is consistent with Outcome 4 of Zone CP and Zone Purpose as:

- vehicle access to each lot will be via an existing sealed local road, reticulated water, electricity and telecommunications services will be connected to each lot. Reticulated sewerage service is not available in the immediate locality.
- The proposed new lots (A & B) are all assessed as having sufficient size and dimensions to accommodate a range of land use and development types that are permissible in Zone CP (subject to the requirements of Clause 1.8 of the NTPS2020). It is anticipated the subdivision will not comprise the ability for the Centre for Appropriate Technology and ancillary uses to continue to operate from the residual parcel (Lot C).
- 2. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration 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.
 - No constraints to land capability have been identified during the exhibition period or within the assessment. The land itself has been described as undulating alluvial plains with well drained red and brown sandy soils. All three lots can be appropriately serviced and have access to the existing road network.
- 3. 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 and advisory notes will ensure:

- Service authority interests are duly recognised in terms of storm water drainage, vehicle access, electricity and water services that apply to the subdivision 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.
- 4. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated
 - Subject to compliance with the conditions of approval, the proposed subdivision is not expected to have any adverse impact on the existing or future amenity of the area and the lots are of a size considered capable of supporting the existing and continued use for community purposes in accordance with the zone.

5. 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. The application included a previous search obtained from the Aboriginal Areas Protection Authority. An advisory note is included on the permit recommending the developer obtain an Authority Certificate for undertaking any works on the subject site and adjacent road reserves.

FOR: 5 AGAINST: 0 ABSTAIN: 0

ACTION: DAS to prepare Notice of Consent and Development Permit

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

SUZANNE PHILIP Chair 28 April 2023