DEV ELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 202 – WEDNESDAY 11 NOVEMBER 2015

DOUBLE TREE BY HILTON
BARRETT DRIVE
ALICE SPRINGS

MEMBERS PRESENT: Denis Burke, David Koch, Brendan Heenan, Steve Brown

APOLOGIES: Alistair Feehan

OFFICERS PRESENT: Peter Somerville, Fraser Cormack, Jennie Ryan

COUNCIL REPRESENTATIVE : Dilip Nellikut

Meeting opened at 10:50 am and closed at 12:00 pm
ITEM 1  CONCURRENT APPLICATION – TO REZONE FROM ZONE R (RURAL) TO SPECIFIC USE AND SUBDIVISION TO CREATE 16 LOTS
LOT 9306 (589) ROSS HIGHWAY, SUBURB OF ROSS, TOWN OF ALICE SPRINGS ZONE A PTY LTD

An audio recording was made and forms the official record of the meeting.

Stuart Chalmers attended the meeting in support of the application.

Dilip Nellikat attended on behalf of the Alice Springs Town Council (ASTC).

The following persons attended and added to their submissions - Bob Kessing, Erwin Chlanda, James Napier, Janine Stanton, Catrina Kilgariff, Amanda Lucas,

Rod Cramer attended and read from a supplementary submission on behalf of the Alice Springs Rural Area Association Inc. and tabled the submission.

Jimmy Cocking attended on behalf of the Arid Lands Environment Centre and added to its submission.

Ruth Jones attended and tabled a supplementary submission on behalf of Libby Prell and Tony Smith who were unable to attend meeting.

RESOLVED 0087/15

That, pursuant to section 30P(1)(b) of the Planning Act the Development Consent Authority indicates that it would likely determine to refuse to consent to the development proposal to subdivide Lot 9306 (589) Ross Highway, Suburb of Ross, Town of Alice Springs to create 16 lots, under section 30W(1)(c), for the following reasons:

1. Pursuant to sections 30P(2)(a) of the Planning Act, the consent authority must take into account any planning scheme that applies to the land to which the application relates and the amendment proposal contained within the application. The Northern Territory Planning Scheme is the applicable planning scheme and provides broad policy direction as well as detailed performance criteria under Part 5 with respect to subdivision of land.

Under clause 4.0 (Planning Principles and Framework) of the NT Planning Scheme, the interpretation of the Planning Scheme and the determinations of a consent authority must have regard to the planning principles and the relevant framework drawings (as may be the case) contained in Part 2 of the Scheme and ensure that a use or development or proposed use or development is consistent with them.

The proposed SU Zone does not include a minimum lot size and relies on the proposed subdivision to establish lot sizes. Under clause 11.4.5.2(a), subdivision of Land Zone RR 'should provide for lots 2ha or larger adjacent to any lots 2ha or larger in a zone other than Zone RR'. The consent authority noted that all adjoining
lots have a minimum size of 2ha, whereas 13 of the 16 proposed lots have an area less than 1.3ha and considered that compliance with the criterion would be particularly appropriate, given that all adjoining lots exceeded 2ha.

The proposed subdivision includes predominantly irregular shaped lots that are significantly smaller than the 2 hectares and would facilitate a higher dwelling density than that permitted on adjoining lots and as such may be expected to alter the existing character of the locality.

While the concurrent application includes detailed investigation reports addressing a range of relevant considerations, the documentation provided does not directly or satisfactorily address performance criteria contained in Part 5 of the Scheme or demonstrate how the proposed subdivision would comply with those criteria. Notably, the application does not directly respond to the Department of Land Resource Management's NT Land Suitability Guidelines, which are a key referenced document under the Scheme, for a subdivision such as that proposed.

2. Pursuant to Section 30P(2)(b) of the Planning Act, the consent authority must take into account the amendment proposal in the application.

Even having regard to the intended zoning, the consent authority has not identified or been made aware of any grounds that it considers justify the creation of any lots on the site that are smaller than the established minimum lot size of 2ha for adjoining lots and the SU zone would facilitate the creation of lots smaller than 2ha.

The consent authority formed the view that it would be inappropriate for lot sizes less than 2 ha, given that:

- under clause 11.4.5.2(a), subdivision of Land Zone RR ‘should provide for lots 2ha or larger adjacent to any lots 2ha or larger in a zone other than Zone RR’;
- 13 of the 16 proposed lots have an area less than 1.3ha; and
- it considered that compliance with the criterion would be appropriate in the context of the site being surrounded by lots that are 2ha or larger.

3. Pursuant to Section 30P(2)(c) of the Planning Act, the consent authority must take into account any significant development report given to the consent authority under section 30D(6)(c)(iii).

The Minister did not request a significant development report.

4. Pursuant to Section 30P(2)(c) of the Planning Act, the consent authority must take into account any interim development control order in force for the land.

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

5. Pursuant to Section 30P(2)(e) of the Planning Act, the consent authority must take into account any environment protection objective, as defined in section 4(1) of the Waste Management and Pollution Control Act, that is relevant to the land.

No environmental protection objectives relevant to the land have been identified.

6. Pursuant to Section 30P(2)(f) of the Planning Act, the consent authority must take...
into account any information received as a result of consultations carried out, submissions received, or evidence given at a hearing.

The Alice Springs Town Council (ASTC) made a submission in its capacity as a local authority and ‘reserving’ third party appeal rights. Under the Planning Act, third Party Appeal Rights do not apply to either planning scheme amendments or subdivisions and the ASTC has been advised accordingly. Comments by the ASTC at the hearing indicated that Council was not wholly supportive of the stormwater drainage design in response to sheet flow.

14 public submissions were received from the public during the public exhibition period and a number of submitters reiterated and/or expanded issues and concerns at the hearing of the application.

The consent authority noted the range of issues raised and envisaged that most concerns identified in public submissions in relation to the proposed subdivision could be reasonably addressed through:

- further site investigation and review of the application documentation to address Part 5 of the Planning Scheme as well as all relevant considerations under section 30(c)(4) of the Planning Act;
- revisions to the subdivision design suitably responding to site conditions;
- application of a minimum lot size of 2ha that would be generally consistent with the lot sizes of adjoining properties and could be expected to reasonably ensure that the character of the immediate locality is not unduly affected by virtue of higher density rural residential development;
- demonstration of viable road and drainage proposals that are acceptable to relevant authorities; and
- relevant development permit conditions.

7. Pursuant to Section 30P(2)(g) of the Planning Act, the consent authority must take into account a matter that the Minister has, under section 30ZC(1), directed the consent authority to consider in relation to concurrent applications generally;

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

8. Pursuant to Section 30P(2)(h) of the Planning Act, if a public environmental report or an environmental impact statement has been prepared or is required under the Environmental Assessment Act in relation to the application:
   (i) the report or statement; and
   (ii) the results of any assessment of the report or statement under that Act;

The NT Environment Protection Agency (NTEPA) has recommended that any permit issued includes conditions relating to management of dust and control of fill quality. No requirement for a public environmental report or an environmental impact statement has been identified.

9. Pursuant to Section 30P(2)(i) of the Planning Act, the consent authority must take into consideration the merits of the development proposal as demonstrated in the application;

Even under the proposed zoning the consent authority did not consider the proposal to demonstrate any extraordinary merit nor provide any compelling
reasons for the deviation from the established rural subdivision pattern of lots well in excess of 2ha in the immediate area.

10. Pursuant to Section 30P(2)(j) of the Planning Act, 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 consent authority concurred with the Department of Land Resource Management comments that, notwithstanding the engineering reports included in the application, it was not clearly demonstrated that the land was suitability for subdivision and subsequent development as proposed.

11. Pursuant to Section 30P(2)(k) of the Planning Act, the consent authority must take into consideration the public facilities or public open space available in the area in which the land is situated and any requirement for the facilities, or land suitable for public recreation, to be provided by the applicant;

Given the site’s proximity to the town, the substantial lot sizes and access to public open space (including the Todd River), a rural living subdivision of the type proposed in not considered to warrant provision of additional open space or recreation facilities.

12. Pursuant to Section 30P(2)(l) of the Planning Act, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated and any requirement for:
   (i) public facilities and services to be connected to the land; and
   (ii) facilities, infrastructure or land to be provided by the applicant;

The Department of Transport (DoT) has identified potential concerns with the proposed access to the subdivision that may preclude construction of an intersection at the Ross Highway. The Alice Springs Town Council (ASTC) has not demonstrated its support for the proposed non-standard storm water management strategy and has indicated that it would like to see stormwater channelled with easements as required. DoT and ASTC support for the proposed subdivision is considered essential to ensuring the viability of the proposed subdivision.

The application identifies the intent to service the subdivision to the satisfaction of relevant agencies, including:
   • constructing an intersection and associated works;
   • constructing a sealed access road for the subdivision;
   • connecting to water and electricity supply networks; and
   • providing lighting to the proposed intersection.

13. Pursuant to Section 30P(2)(m) of the Planning Act, 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 application does not adequately justify smaller lots sizes even with regard to more restrictive land uses as proposed in the SU zone.

These minutes record persons in attendance at the meeting and the resolutions of the Development Consent Authority on applications before it. Reliance on these minutes should be limited to exclude uses of an evidentiary nature.
The proposed subdivision for residential purposes may be expected to result in some loss of amenity to adjoining properties, including through visual impacts (from power supply infrastructure and development of individual lots), increased noise, light impacts and potentially dust impacts. In the event that stormwater is not adequately managed, the post subdivision development of the land may also have related adverse impacts, particularly on downstream properties, including erosion and increased concentration of stormwater.

14. Pursuant to Section 30P(2)(n) the consent authority must take into consideration the public interest, including (if relevant) how the following matters are provided for in the application:
   (i) community safety through crime prevention principles in design;
   (ii) water safety; and
   (iii) access for persons with disabilities.

The proposed stormwater drainage strategy relies on sheet flow. There is a potential that during or following significant rainfall events, stormwater flow may present some hazard.

15. Pursuant to Section 30P(2)(p) of the Planning Act, the consent authority must take into consideration any potential impact on natural, social, cultural or heritage values (including, for example, the heritage significance of a heritage place or heritage object under the Heritage Act);

The consent authority:
   a) noted advice to the effect that:
      (i) A search of the NT Heritage Branch (Department of Lands, Planning and the Environment) indicates that there are no declared heritage places located within Lot 9306, Ross Highway, Alice Springs.
      (ii) a search of the NT Archaeological Sites Database indicates that there are also no previously recorded Aboriginal archaeological sites located within Lot 9306, Ross Highway, Alice Springs.
      (iii) Numerous Aboriginal archaeological sites have been recorded in the wider vicinity and the likelihood of Aboriginal archaeological sites (commonly stone artefact scatters, stone quarries and rock art) occurring within Lot 9306 is considered moderate to high.
      (iv) Heritage Branch recommends that archaeological surveys are conducted of Lot 9306, Ross Highway, Alice Springs once the subdivision and rezoning process has taken place but prior to any development beginning on the site.
      (v) There is a registered sacred site on the property.
      (vi) The application advises that an application for a Sacred Site Certificate has been lodged.
      (vii) The Department of Land Resource Management has identified the possibility of rare and threatened land snail species on the site and recommends a survey to determine whether their habitat exists on the site; and
   b) concluded that additional investigations and consultation with relevant agencies were warranted as part of the development of any revised subdivision plan.

16. Pursuant to Section 30P(2)(q) of the Planning Act, the consent authority must take into consideration any beneficial uses, quality standards, criteria, or objectives, that are declared under the Water Act;
The proposed subdivision is not expected to impact on any declared beneficial uses. Future development of the proposed lots will be connected to reticulated water.

**RESOLVED 0088/15**

That, pursuant to Section 30Q of the *Planning Act*, the Development Consent Authority report to the Minister For Lands and Planning on the preliminary decision, issues raised in submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the proposal.

**ACTION:** PREPARE REPORT TO MINISTER

**RESOLVED 0089/15**

That, pursuant to section 86(1) of the Planning Act, the Development Consent Authority delegates its powers to the Chairman or in Chairman’s absence any one of the other members of the Alice Springs Division to:

1. Determine pursuant to Section 30W(1)(c) of the *Planning Act* refuse to consent to the development proposal contained in the concurrent application and refuse the concurrent application after receipt of a notice under Section 30U(1); and

2. Issue the relevant notices under Section 30Z.

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

DENIS BURKE
Chairman

27/11/2015