



## **DEVELOPMENT CONSENT AUTHORITY**

### **ALICE SPRINGS DIVISION**

### **MINUTES**

**MEETING No. 284**

**8 MAY 2024**

**RED MULGA EVENT SPACE  
ALICE SPRINGS DESERT PARK  
539 LARAPINTA DRIVE  
ALICE SPRINGS**

**MEMBERS PRESENT:** Suzanne Philip (Chair), Deepika Mathur, Mark Coffey (via video link), Marion Guppy (via video link)

**APOLOGIES:** Chris Neck, Allison Bitar, Matt Paterson

**LEAVE OF ABSENCE:** Nil

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

**COUNCIL REPRESENTATIVE:** Matt Raymond, Stephen Baloban, Kristine Capangpangan

**Meeting opened at 9:50am and closed at 12:20pm**

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

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.

The Chair, Development Consent Authority, under section 93(1) of the Planning Act 1999, appoint Marion Isobel Guppy who is a member in relation to the Darwin Division, to act as a member for Christopher Murray Neck in relation to the Alice Springs Division from 24 April 2024 to 22 May 2024 as Murray Neck is prevented from performing his duties of office because of absence.

**ITEM 1**                    **DWELLING-INDEPENDENT WITH A FLOOR AREA IN EXCESS OF 80M<sup>2</sup> AND A**  
**PA2024/0029**            **SEPARATE EFFLUENT DISPOSAL SYSTEM**  
                                 **NT PORTION 3478 (194) GREATOREX ROAD, ILPARPA, ALICE SPRINGS**  
**APPLICANT**            Michael Jarman

Applicants Michael & Catherine Jarman (owners) attended the meeting. Michael Jarman spoke further to the application.

**RESOLVED**            That, the Development Consent Authority vary the requirements of Clause  
**09/24**                    5.4.13 (Dwelling-Independent) 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 3478, (194) Greatorex Road, Ilparpa, Alice Springs for the  
                                 purpose of a dwelling-independent with a floor area in excess of 80m<sup>2</sup> and a  
                                 separate effluent disposal system, 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. 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 drawings in accordance with the authorities' requirements and relevant legislation at the time. NOTE: no more than one electricity and water connection to NT Portion 3478 is permitted.

### NOTES:

1. This development permit does not grant "building approval" for the proposed structure and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.
2. 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

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

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.

3. 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](mailto:info@ntbuild.com.au)) or by phone on (08) 89364070 to determine if the proposed works are subject to the Act.
4. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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.
5. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
6. 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/newdevelopments/builders-designers.html>.
7. NT Portion 3478 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.

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

The NT Planning Scheme 2020 (NTPS2020) applies to the land which is zoned RL (Rural Living). As set out in sub-clause 1(a) of Clause 1.8 of the NTPS2020, a 'dwelling-independent' development / land use is listed as permitted without consent in Zone RL, subject to compliance with:

- Clause 3.2 (CNV – Clearing of Native Vegetation)
- Clause 5.2.1 (General Height Control);
- Clause 5.2.4.1 (Car Parking Spaces)
- Clause 5.2.6.1 (Landscaping in Zones Other Than Zone CB)
- Clause 5.4.3 (Building Setbacks for Residential Buildings and Ancillary Structures)
- Clause 5.4.3.2 (Distance Between Residential Buildings on One Site)
- Clause 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group)
- Clause 5.4.13 (Dwelling-Independent)

The proposal has been assessed against these clauses and it does not fully comply with Clause 5.4.13 (Dwelling-Independent) -

- the application proposes that the existing dwelling-single and the proposed dwelling-independent on the site will be serviced by separate effluent disposal systems (variation to sub-clause 7 of Clause 5.4.13).
- the 'floor area' of the 'dwelling-independent' will be 129.4m<sup>2</sup> instead of the maximum permitted 80m<sup>2</sup> (variation to sub-clause 5(a) of Clause 5.4.13)

Under section 51(3) of the *Planning Act 1999*, when considering a development application under subsection 51(1), the consent authority must apply the relevant considerations to only those components of the development that triggered the requirement for consent under the planning scheme. The development application is *Merit Assessable* under sub-clause 1(b)(ii)(2) of Clause 1.8 of the NTPS2020.

*Sub-clause 2 of Clause 1.10 of the NTPS2020 specifies* - in considering an application for consent for a use or development that has become Merit Assessable under sub-clause 1(b)(ii)(2) of Clause 1.8, the consent authority must consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements.

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).*

The development complies with all of the Part 3 and Part 5 requirements except Clause 5.4.13 (Dwelling-Independent). The purpose of this clause is - *ensure a dwelling-independent provides for increased housing choice while remaining ancillary to the dwelling-single on a site, and is developed in a manner that:*

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

- (a) *avoids significant impact on the amenity of adjoining and nearby property;*
- (b) *does not detrimentally impact on the natural environment; and*
- (c) *does not adversely impact the local road network.*

The NTPS2020 definition of “ancillary” means - *associated with, but auxiliary and subordinate to, the primary land use;*

Sub-clause 5(a) requires that in Zone RL, the maximum floor area of the dwelling-independent shall not exceed 80m<sup>2</sup>. The ‘administration’ (sub-clause 2) of the Clause provides that “*The consent authority may consent to a dwelling-independent that is not in accordance with sub-clause 5 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 surrounding amenity.*” The dwelling-independent has a floor area of 129.4m<sup>2</sup>.

The proposal is considered to adequately respond to the objectives of Clause 5.4.13, and the purpose and outcomes of Zone RL, since:

- Despite its increased size, the dwelling-independent remains proportionately ancillary to the dwelling-single. The floor area of the dwelling-single is calculated at ~285m<sup>2</sup>, with the size of the dwelling-independent considerably smaller at 129.4m<sup>2</sup>. The increased size of the dwelling-independent is not likely to be overly noticeable when viewed from adjoining and nearby land and is consistent with the building footprints of sheds on other properties in the Greatorex Road locality.
- The dwelling-independent, as the new addition proposed, is located relatively centrally to the site, which assists in minimising the impact on adjoining and nearby property. The setbacks to the dwelling-single and dwelling-independent are noted as well exceeding the minimum setbacks required by Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).
- No impacts on the natural environment or local road network are expected.
- The development is not expected to result in any contravention to the purpose of Zone RL, being 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 rural lifestyle setting of the locality will be retained.

Further, sub-clause 3 provides that the consent authority must not consent to a dwelling-independent that is not serviced by a common effluent disposal system or connected to reticulated sewerage, unless:

- (a) *documentary evidence that an existing wastewater management system does not comply or will not comply with the requirements of the Code of Practice for Wastewater Management as a result of the proposed dwelling-independent, is provided by:*
  - i. *a registered certifying plumber and drainer or certifying engineer (hydraulic) (for locations within declared building control areas under the provisions of the Building Act 1993); or*

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

- ii. a licenced plumber and drainer or hydraulic consultant (for locations where the *Building Act 1993* does not apply); and
- (b) it can be demonstrated by a site and soil evaluation report completed by an appropriately qualified site-and-soil evaluator that a wastewater management system complying with the requirements of the *Code of Practice for Wastewater Management* can be installed for the proposed development.

PAWC reticulated sewerage service is not available in the locality and the development includes a new on-site effluent disposal system for the dwelling-independent, in addition to the existing effluent disposal system which currently services the dwelling-single.

In relation to part (a), the application (as amended) included a statement from a licenced certifying plumber (dated 07/02/2024) confirming due to the distance between the two dwellings, the number of plumbing fixtures in the existing-dwelling single, and the size/capacity of the existing effluent disposal system, it (system) is incapable of being used, and confirming the use of a secondary septic disposal system is necessary for the new dwelling-independent.

In relation to part (b) the development application has included a site and soil evaluation report that was prepared specifically for the proposed dwelling and its intended location on the site.

3. 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 physical characteristics of the land are considered suitable for the proposed development and use. The site is not flood liable (1% AEP Todd River event), minimal filling of the site will be required and there will be no works on or adjacent to road reserves. The conditions and advisory notes included in a development permit may be expected to assist in ensuring appropriate management of dust and noise during construction. Installation/upgrading of any wastewater systems on the site will be included as part of *Building Act 1993* approvals.

4. 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:

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

- Service authority interests are duly recognised in terms of works within the road reserve, connections to and upgrading of electricity supply, water supply services that apply to the development on the site; and
  - The NTPS 2020 objectives and development performance criteria relating to access, works within road reserves 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 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 of a new, larger dwelling-independent centrally on site is not expected to result in any adverse amenity impacts on the locality. The increased size of the dwelling-independent is not likely to be overly noticeable when viewed from adjoining and nearby land, and the rural lifestyle setting of the locality will be retained. The building setbacks to the dwelling-single and dwelling-independent are also noted as well exceeding the minimum setbacks required in Zone RL.

Subject to the development complying with the permit conditions and advisory notes, the proposed development and use is expected to provide a good level of amenity to the future occupants of the premises without intrusion into the acoustic and visual amenity of adjacent and nearby land.

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*. The assessment of the application did not identify any declared natural, cultural or heritage values relevant to the subject site.
7. Notification of the application was undertaken in accordance with the requirements of the *Planning Act 1999* and the *Planning Regulations 2000* that were in force at the time of lodgement. No public or local government council submissions were received.

**FOR:** 4

**AGAINST:** 0

**ABSTAIN:** 0

**ACTION:** Notice of Consent and Development Permit

**ITEM 2**  
**PA2024/0064**

**SINGLE DWELLING FOR USE AS A GROUP HOME WITH REDUCED BUILDING SETBACKS TO SIDE BOUNDARY  
LOT 10834 (17) BONANNI CIRCUIT, ROSS, ALICE SPRINGS**

**APPLICANT**

Cunnington Rosse Town Planning and Consulting – Brad Cunnington

Applicant Brad Cunnington attended the meeting via Teams video conference and spoke further to the application.

**RESOLVED  
10/24**

That pursuant to Section 53 (c) of the *Planning Act 1999* the Development Consent Authority refuse to consent to the application to develop Lot 10834 (17) Bonnani Circuit, Ross, Alice Springs for the purpose of a single dwelling for use as a group home with reduced building setbacks to the side boundary.

## **REASONS FOR THE DETERMINATION**

1. Pursuant to section 51(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.

In July 2020, a substantial overhaul of the Northern Territory Planning Scheme which involved amendments to the NT *Planning Act 1999* (the act) and the introduction of a new Northern Territory Planning Scheme 2020 (NTPS2020) to replace the former NT Planning Scheme 2007 (NTPS2007). The Act amendments introduced a new provision relating to Specific Use Zones Section 215, which provides –

- 1) if requested by the applicant, a development application in relation to a specific use zone must be determined:
  - a) In accordance with this Act in force immediately before the commencement and; and
  - b) In relation to the elements of the planning scheme applicable immediately before the commencement
- 2) This section is repealed on the day fixed by the Administrator by Gazette notice
- 3) The date fixed under subsection (2) must be at least 5 years after the commencement

The Alice Springs Division of the Development Consent Authority (“DCA”) considers that the phrase “if requested by the applicant” as used in section 215(1) refers to the making of a development application in relation to a specific use zone created under the NTPS 2007, to the effect that, when such an application is made, it is to be determined in accordance with the Act and the NTPS 2007 as in force immediately before 31<sup>st</sup> July 2020.

In reaching its conclusion the Authority relies on Section 62B of the *interpretation Act 1978* and the Explanatory Statement indicates that the provision – “establishes that for a period of at least 5 years after commencement, existing specific use zones will continue to apply in accordance with the Act and the planning scheme prior to the commencement. This timeframe will provide for the review and amendment of the specific use zones to reflect the revisions of the Act and the scheme.

In determining the application for development of Lot 10834 the DCA considers that the applicable Act and Scheme are those in force immediately before 31<sup>st</sup> July 2020.



## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

Lot 10834 is Zoned Specific Use SA8 of the NT Planning Scheme 2007 and the application has been assessed against the zone requirements and other relevant clauses of the NTPS2007. The DCA notes that the application was placed on limited notice exhibition under Section 47A of the Planning Act 1999 and Regulation 8A(2) of the Planning Regulations. Regulation 8A(2) only applies to “development on land on which a single dwelling has been built, or is to be built”. The application is styled as “single dwelling for use as a group home”. Clause 5 of SA8 identifies those as separate uses, both of which are permitted within the zone. The DCA considers that if the application is to be considered as a group home, then the limited exhibition provisions contained in Section 47A and Regulation 8A cannot apply. For the purposes of consideration of this application, the DCA finds that it is an application for a single dwelling.

The development proposal does not comply with paragraph 7 (b) (3) of Zone SA8 which requires a single dwelling to have a 1.5m building setback from the side boundary.

Specific Use Zone SA8 states that – *if the development does not comply with the listed requirements, the consent authority may consent to a variation of the requirements only if it is satisfied that special circumstances justify the giving of consent.*

The meaning of “special circumstances” has been considered in a number of NTCAT decisions and most particularly in *White & Ors v Development Consent Authority & Tomazos Property Pty Ltd ATF Tomazos Property Discretionary Trust* [2015] NTCAT 10. In that decision the tribunal noted (at [102] – [103]):

The meaning of... [clause 2.5(4)][4]... is well understood. In *Phelps v Development Consent Authority*[2009] NTSC 54 Kelly J relevantly noted:

- ‘special circumstances’ are circumstances that are ‘unusual, exceptional, out of the ordinary and not to be expected’ (at [21]);
- an holistic approach to the question is necessary, with each case to be considered on its merits, and with the decision maker alert to the fact that circumstances which by themselves might not be ‘special’ can, in combination with other circumstances, create a situation which overall gives rise to ‘special circumstances’ (at [22]);
- there is also the need to determine, in an ordinary common-sense manner, whether there are circumstances which either individually or collectively can be considered to be ‘special circumstances’ justifying consent (at [23]).

The DCA further noted the NTCAT decision *Bradley v Development Consent Authority & Kalhmera Pty Ltd* [2017] NTCAT 922 where President Bruxner observed, “*the expression ‘special circumstances’ draws attention to the need to demonstrate something about a proposed development that means that requirements of the NTPS that would otherwise apply can appropriately be relaxed. Consideration of that issue will normally involve attention to aspects of the proposed development which set it apart from developments on other, similarly zoned, land. The question is whether there is anything ‘unusual, exceptional, out of the ordinary and not to be expected’ about the proposed development that justifies a departure from the requirements of the planning scheme.*”

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

The DCA determined that there was nothing about the reduced building setback that could be considered special circumstances and was not satisfied that the reasons in support of the variation as shown in the application, or, explained during the consent authority meeting disclosed any matter which would justify the giving of consent.

2. Pursuant to section 51 (1) (h) of the Planning Act 1999, the consent authority must take in to account the merits as of the proposed development as demonstrated in the application

The application stated that the building envelope shifts the required setback from one side of the lot to the other, and given the building envelope would be identical on the adjoining lot, it is unlikely any adverse impacts with relation building massing would arise when viewed from the main street.

The consent authority raised concerns in relation to building massing and the future occupation and use of the dwellings. The consent authority also noted that the lot size appeared to be large enough to site the dwellings in such a way as to achieve compliance. The proposed development is considered to have an adverse impact on amenity as the reduced building setback is anticipated to provide a reduction in visual amenity.

3. Pursuant to section 51 (1) (e) of the Planning Act 1999, the consent authority must take in to consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

As previously noted, notification of the application was undertaken in accordance with Section 47A of the Planning Act 1999 and the Planning Regulations 2000 that were in force at the time of lodgement. No public or local government council submissions were received.

**FOR: 4**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Refusal

**ITEM 3  
PA2024/0065**

**SINGLE DWELLING FOR USE AS A GROUP HOME WITH REDUCED  
BUILDING SETBACKS TO SIDE BOUNDARY**

**APPLICANT**

**LOT 10860 (16) BONANNI CIRCUIT, ROSS, ALICE SPRINGS**

Cunnington Rosse Town Planning and Consulting – Brad Cunnington

Applicant Brad Cunnington attended the meeting via Teams video conference and spoke further to the application.

**RESOLVED  
11/24**

That pursuant to Section 53 (c) of the Planning Act 1999 the Development Consent Authority refuse to consent to the application to develop Lot 10860

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

(16) Bonnani Circuit, Ross, Alice Springs for the purpose of single dwelling for use as a group home with reduced building setbacks to the side boundary.

### REASONS FOR THE DETERMINATION

1. Pursuant to section 51(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.

In July 2020, a substantial overhaul of the planning system for the NT came in to effect which involved amendments to the NT *Planning Act 1999* (the act) and the introduction of a new Northern Territory Planning Scheme 2020 (NTPS2020) to replace the former NT Planning Scheme 2007 (NTPS2007). The Act amendments introduced a new provision relating to Specific Use Zones Section 215, which provides-

- 1) If requested by the applicant, a development application in relation to a specific use zone, must be determined:
  - a) In accordance with this Act in force immediately before the commencement: and
  - b) In relation to the elements of the planning scheme applicable immediately before the commencement; and
- 2) This section is repealed on the day fixed by the Administrator by gazette notice.
- 3) The date fixed under subsection (2) must be at least 5 years after the commencement

The Alice Springs Division of the Development Consent Authority (“DCA”) considers that the phrase “if requested by the applicant” as used in Section 215 (1) refers to the making of a development application in relation to a specific use zone created under the NTPS 2007, to the effect that when such an application is made, it is to be determined in accordance with the Act and the NTPS2007 as in force immediately before 31<sup>st</sup> July 2020. In reaching its conclusion, the Authority relies upon section 62B of the *interpretation Act 1978* and the Explanatory Statement indicates that the provision – “*establishes that for a period of at least 5 years after commencement, existing specific use zones will continue to apply in accordance with the Act and the Planning Scheme prior to commencement.*” This timeframe will provide for the review and subsequent amendment of the specific use zones to reflect the revisions to the Act and the scheme.

In determining the application for development of Lot 10860 the DCA considers that the applicable Act and Scheme are those in force immediately before 31<sup>st</sup> July 2020.

Lot 10834 is Zoned Specific Use SA8 of the NT Planning Scheme 2007 and the application has been assessed against the zone requirements and other relevant clauses of the NTPS2007. The DCA notes that the application was placed on limited notice exhibition under Section 47A of the *Planning Act 1999* and Regulation 8A(2) of the *Planning Regulations*. Regulation 8A(2) only applies to “development on land on which a single dwelling has been built, or is to be built”. The application is styled as “single dwelling for use as a group home”.

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

Clause 5 of SA8 identifies those as separate uses, both of which are permitted within the zone. The DCA considers that if the application is to be considered as a group home, then the limited exhibition provisions contained in Section 47A and Regulation 8A cannot apply. For the purposes of consideration of this application, the DCA finds that it is an application for a single dwelling.

The development proposal does not comply with paragraph 7 (b) (3) of Zone SA8 which requires a single dwelling to have a 1.5m building setback from the side boundary.

Specific Use Zone SA8 states that – if the development does not comply with the listed requirements, the consent authority may consent to a variation of the requirements only if it is satisfied that special circumstances justify the giving of consent.

The meaning of “special circumstances” has been considered in a number of NTCAT decisions and most particularly in *White & Ors v Development Consent Authority & Tomazos Property Pty Ltd ATF Tomazos Property Discretionary Trust* [2015] NTCAT 10.

In that decision the tribunal noted (at [102] – [103]):

The meaning of... [clause 2.5(4)][4]... is well understood. In *Phelps v Development Consent Authority*[2009] NTSC 54 Kelly J relevantly noted:

- ‘special circumstances’ are circumstances that are ‘unusual, exceptional, out of the ordinary and not to be expected’ (at [21]);
- an holistic approach to the question is necessary, with each case to be considered on its merits, and with the decision maker alert to the fact that circumstances which by themselves might not be ‘special’ can, in combination with other circumstances, create a situation which overall gives rise to ‘special circumstances’ (at [22]);
- there is also the need to determine, in an ordinary common-sense manner, whether there are circumstances which either individually or collectively can be considered to be ‘special circumstances’ justifying consent (at [23]).

The DCA further noted the NTCAT decision *Bradley v Development Consent Authority & Kalhmera Pty Ltd* [2017] NTCAT 922 where President Bruxner observed, “the expression ‘special circumstances’ draws attention to the need to demonstrate something about a proposed development that means that requirements of the NTPS that would otherwise apply can appropriately be relaxed. Consideration of that issue will normally involve attention to aspects of the proposed development which set it apart from developments on other, similarly zoned, land. The question is whether there is anything ‘unusual, exceptional, out of the ordinary and not to be expected’ about the proposed development that justifies a departure from the requirements of the planning scheme.”

The DCA determined that there was nothing about the reduced building setback that could be considered special circumstances and was not satisfied that the reasons in support of the variation as shown in the application, or, explained during the consent authority meeting disclosed any matter which would justify the giving of consent.

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

2. Pursuant to section 51 (1) (h) of the Planning Act 1999, the consent authority must take in to account the merits as of the proposed development as demonstrated in the application

The application stated that the building envelope shifts the required setback from one side of the lot to the other, and given the building envelope would be identical on the adjoining lot, it is unlikely any adverse impacts with relation building massing would arise when viewed from the main street.

The consent authority raised concerns in relation to building massing and the future occupation and use of the dwellings. The consent authority also noted that the lot size appeared to be large enough to site the dwellings in such a way as to achieve compliance. The proposed development is considered to have an adverse impact on amenity as the reduced building setback is anticipated to provide a reduction in visual amenity.

3. Pursuant to section 51 (1) (e) of the Planning Act 1999, the consent authority must take in to consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

As previously noted, notification of the application was undertaken in accordance with Section 47A of the Planning Act 1999 and the Planning Regulations 2000 that were in force at the time of lodgement. No public or local government council submissions were received.

**FOR:** 4

**AGAINST:** 0

**ABSTAIN:** 0

**ACTION:** Notice of Refusal

**ITEM 4**  
**PA2024/0053**  
**APPLICANT**

**EXHIBITION CENTRE WITH ANCILLARY PLACE OF ASSEMBLY  
LOT 678 (7) WILLS TERRACE & LOT 2683 (26) SCHWARZ CRESCENT, ALICE  
SPRINGS  
Masterplan SA Pty Ltd**

Applicant: Mr Mark Hogan (Masterplan SA Pty Ltd) attended the meeting. Mr George Dakis (Masterpan SA Pty Ltd) attended the meeting via video conference.

Submitters: Ms Kylie MacFarlane and Mr Rob Dominguez attended the meeting.

Matt Raymond (Manager, Facilities and Development, ASTC), Stephen Baloban (Manager, Infrastructure, ASTC) and Kristine Capangpangan (Projects Administration, ASTC) attended the meeting.

The Authority notes that Sarah Fairhead, Sarah Fairhead, Executive Director, Southern Region, Department of Infrastructure, Planning and Logistics attended the meeting. Ms Fairhead played no role at the meeting and did not participate in any manner in the Authority's determination of this matter.

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

Interested Parties also in attendance:- Sam Brown, Senior Project Manager, RPS and Flynn Carr, Associate, Susan Dugdale & Associates

### RESOLVED 12/24

That, the Development Consent Authority vary the requirements of Clause 5.2.4.1 (Car Parking Spaces), and Clause 5.2.4.4 (Layout of Car Parking Area) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 678 (7) Wills Terrace and Lot 2683 (26) Schwarz Crescent, Town of Alice Springs for the purpose of Exhibition Centre with ancillary Place of Assembly, subject to the following conditions:

#### CONDITIONS PRECEDENT:

1. Prior to the endorsement of plans and prior to commencement of works, amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
  - a) Five car parking spaces within the main car parking area on Lot 678 that are redesigned to accommodate large vehicles (ie: pickup trucks or motorhomes) and/or caravans;
  - b) loading bays and associated delineation works shown on drawings to comply with the dimensions detailed in Clause 5.2.5 (Loading Bays) of the NT Planning Scheme 2020; and
  - c) amended survey plan (Attachment F of the MasterPlan application materials) detailing the restricted works areas surrounding sacred sites and trees as recorded in Authority Certificate C2018/69.
2. Prior to the commencement of works, written evidence will be provided by the applicant to the consent authority from the Power and Water Corporation confirming that the proposed structures (ie: retaining wall) will not obstruct, encroach or be built over existing or required easements.

If this condition results in the need for a change of design, then the amended drawings will detail this in accordance with Condition 1.
3. Prior to the commencement of works the existing Traffic Impact Assessment is to be amended to consider and detail the following to the satisfaction of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics;
  - a) operational and construction traffic impact to the Stuart Highway and Wills Terrace intersection and any recommended measures that may be required to accommodate or mitigate the traffic impact;
  - b) background traffic growth and future year scenarios up to 10 years; and
  - c) impact of vehicles using the coach drop off on the surrounding traffic network.

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

4. Prior to the commencement of works the existing Traffic Impact Assessment (prepared by SJ Traffic Consulting – dated 22/02/2024) is to be amended to consider and detail the following to the satisfaction of the Alice Springs Town Council and Transport and Civil Services Division of the Department of Infrastructure Planning and Logistics:
  - (a) impact of construction phase and operation of the approved use/development on traffic to the:
    - (i) Stuart Highway and Wills Terrace intersection; and
    - (ii) Wills Terrace and Hartley Street intersectionand any recommended measures that may be required to accommodate or mitigate the traffic impact. The Assessment must also be updated to demonstrate how the “Acceptable Land Use and Development Criteria” of Objectives 4.1, 4.3, 4.4 and 4.7 in the Central Alice Springs Area Plan have been addressed.
  - (b) Background traffic growth and future year scenarios up to 10 years.
  - (c) Impact of vehicles using the “coach drop off” on the site for the development / land use, on the surrounding road and footpath network (commentary with regard to short term passenger drop off / collection and longer term parking arrangements for passenger vehicles in the vicinity of the site eg: signage and management of busses parked for extended periods whilst passengers and drivers are visiting the exhibition centre and ancillary uses).
5. Prior to the commencement of works, a Type 2 Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP should be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: [das.ntg@nt.gov.au](mailto:das.ntg@nt.gov.au)

### GENERAL CONDITIONS:

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
7. All works recommended by the traffic impact assessment are to be completed to the requirements of the Alice Springs Town Council and the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.
8. Before the use commences the owner/developer must, in accordance with section 70(3) of the *Planning Act 1999*, provide 177 car parking bays. In accordance with section 70(5) of the *Planning Act 1999*, 12 of the required parking bays may be provided through the payment of a monetary contribution 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*.

Each car park removed from the drawings as amended to include car parks for large vehicles and caravans is to be offset as a monetary contribution to

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

Alice Springs Town Council In accordance with section 70(5) of the *Planning Act 1999*. The contribution is to be calculated in accordance with the requirements of section 70(6) of the *Planning Act 1999*.

9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 2, 12 and 13 for further information.
10. 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.
11. 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.
12. Any security boom, barrier or similar device controlling vehicular access to the premises must be located a minimum of six metres inside the property to allow vehicles to stand clear of the Wills Terrace and unnamed public access road (between Lot 7851 and Lot 678) pavement and footpaths.
13. 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 streets, in accordance with the requirements Alice Springs Town Council, to the satisfaction of the consent authority.
14. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Alice Springs Town Council, to the satisfaction of the consent authority.
15. 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 to the satisfaction of the consent authority.
16. Storage and collection arrangements for waste disposal bins is to be provided to the requirements of Alice Springs Town Council, to the satisfaction of the consent authority.
17. 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 drawings must be:
  - (a) constructed;
  - (b) properly formed to such levels that they can be used in accordance with the drawings;
  - (c) surfaced with an all-weather-seal coat;
  - (d) drained;
  - (e) line marked to indicate each car space and all access lanes; and
  - (f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.
18. "No entry/no exit" signs and arrows directing the internal traffic movement on site shall be provided at completion of building to the requirements and satisfaction of the consent authority.



## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

19. Signage shall be provided directing users of the “coach drop off” area to appropriate sites for parking to the satisfaction of the consent authority.
20. Before the use/occupation of the development, the landscaping works shown on the endorsed drawings must be carried out and completed to the satisfaction of the consent authority.
21. The landscaping shown on the endorsed drawings must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
22. The development and use on Lot 679, Alice Springs shall have access to and use of the new car parking area and driveway access point that will be constructed on Lot 678 (west and north boundaries of Lot 679). Evidence a right of way registered easement, must be provided to the satisfaction of the consent authority, prior to the development/use (approved by this permit) commencing.
23. 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.
24. All roof top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
25. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
26. Prior to a Certificate of Compliance (section 65 of *Planning Act 1999*) being issued for this permit, Lots 678 and 2683, Town of Alice Springs are required to be consolidated and a new title issued for the consolidated lot. Also please refer to Note 9 for advice related to the National Construction Code (NCC).
27. All works relating to this permit must be undertaken in accordance with the accepted Type 2 Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority. Should the accepted Type 2 Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CEPSC) to the satisfaction of the consent authority. The revised ESCP should be submitted for acceptance to Development Assessment Services via email: [das.ntg@nt.gov.au](mailto:das.ntg@nt.gov.au).
28. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. 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

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

works, to the satisfaction of the consent authority. For further information refer to Note 11 below. At completion of works, clearance should be sought from the Department of Environment, Parks and Water Security regarding satisfactory implementation of permanent erosion and sediment control measures and site stabilisation. To arrange a clearance site inspection, email the Land Development Coordination Branch at: [DevelopmentAssessment.DENR@nt.gov.au](mailto:DevelopmentAssessment.DENR@nt.gov.au).

29. At completion of works, written clearance must be provided, to the consent authority, by a Certified Professional in Erosion and Sediment Control (CPESC) regarding satisfactory implementation of temporary and permanent erosion and sediment control measures and site provided to the satisfaction of the consent authority.

### NOTES:

1. 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.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
3. A "Permit to Work Within a Road Reserve" (or similar) may be required from Alice Springs Town Council before commencement of any work within the road reserve or Council owned land (eg: Lot 8199 (ANZAC Hill) and Lot 5140 (Todd River)).
4. Notwithstanding the approved drawings, all signage is subject to Alice Springs Town Council approval, at no cost to Council.
5. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
6. The development and use hereby permitted must be in accordance with Northern Territory legislation including the *Liquor Act 2019*, *Fire and Emergency Regulations 1996*, *Public and Environmental Health Act 2011* and the *Food Act 2004*.
7. All new "places", including renaming, alterations and extensions to existing roads or "places", may be required to be named under the Place Names Act 1967. You should immediately make application to the Place Names Committee to commence the place naming process. Contact the Place Names

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

Unit on 8995 5333 or [place.names@nt.gov.au](mailto:place.names@nt.gov.au). Further information can be found at [www.placenames.nt.gov.au](http://www.placenames.nt.gov.au)

8. Part of the subject site (Totem Theatre – administrative Lot 9466) is a declared heritage place, and there are declared heritage places on adjacent land (Higgins Theatre – administrative Lot 9247 and ANZAC Hill memorial - administrative Lot 8606), and no work is to be carried out within a declared heritage place without following appropriate processes under the terms of the *Heritage Act 2011*.
9. 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 or occupancy certification can be issued.
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](mailto:info@ntbuild.com.au)) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
11. 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](http://www.austieca.com.au) and the Land Management Factsheets available at [www.nt.gov.au/environment/soil-land-vegetation](http://www.nt.gov.au/environment/soil-land-vegetation). For further advice, contact the Development Coordination Branch: (08) 8999 4446.
12. 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](http://www.infrastructure.gov.au/tind)
13. 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>.
14. 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

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

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>.

15. 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. The application relates to Lot 678 (7) Wills Terrace and Lot 2683 (26) Schwarz Crescent, Town of Alice Springs (the site). With the exception of a small portion of land to the north east of Lot 678; which is currently developed for the purpose of a community centre, the application proposes to construct and use the site for the purpose of exhibition centre with ancillary place of assembly, frequently referred to as the National Aboriginal Art Gallery (NAAG).

Lots 678 and 2683 have an area of 4.14 hectares and 2.88 hectares respectively, and a combined area of approx. 7.02 hectares. The majority of the site is zoned CP (Community Purpose), with a small portion of Lot 678 zoned OR (Organised Recreation). It is noted that this portion of land measures approx. 1310m<sup>2</sup> and is not included in this application. The site is affected by overlays LSF (Land Subject to Flooding) and CNV (Clearing of Native Vegetation).

The Totem Theatre is situated in the north eastern portion of Lot 678, and is a declared heritage place. Lot 2683 (26) Schwarz Crescent, formerly used for the Anzac Hill High School, is currently vacant.

2. 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 application proposes an exhibition centre with ancillary place of assembly on Lots 678 and 2683, Town of Alice Springs, to which the Northern Territory Planning Scheme 2020 (NTPS 2020) applies.

The NT Planning Scheme 2020 applies to the land and an exhibition centre with ancillary place of assembly requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clauses 1.9.1(c) and 3.1.4, therefore the strategic framework (Part 2 of the Scheme, including the Central Alice Springs Area Plan), the purpose and requirements of Clause 3.2 (CNV – Clearance of Native Vegetation), Clause 3.6 (LSF – Land Subject to Flooding), zone purpose and outcomes of Clause 4.22 Zone CP (Community Purpose), and Clauses 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.5.3 (General Building and Site

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

Design), 5.8.4 (Exhibition Centre, Place of Assembly and Place of Worship), need to be considered.

### Central Alice Springs Area Plan (CASAP)

*Movement and Transport:* Planning Principle 4.7 seeks to facilitate necessary upgrades along transport corridors to allow the safe and efficient movement of vehicles and people. The application includes a traffic impact assessment (TIA) which recommends a number of improvements including a signalized upgrade of the Wills Terrace/Hartley Street intersection to address safety issues. Alice Springs Town Council and the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, as the road authorities for local and territory roads, will review and determine the necessary upgrades required as a result of this development.

*Culture and Heritage Theme:* Planning Principle 8.1 aims to ensure that development is designed to respond to heritage listed features and items or places of cultural and social interest. The application indicates that the Totem Theatre, a heritage-listed place and identified as a cultural interest item, will be respected and accommodated by this development. Public access will be maintained and enhanced, using sympathetic visually permeable fencing to distinguish between uses.

Planning Principle 8.2 seeks to recognise and celebrate the multicultural heritage and values of Alice Springs. The development includes a comprehensive wayfinding and signage strategy with interpretive signs along pathways to guide visitors. An AAPA Authority Certificate was obtained in 2018 and a detailed survey of sacred sites was conducted as a result. The application indicates that all sacred trees will be preserved and enhanced with new plantings and water strategies and the restricted works area accommodating an Arrernte sacred site in the north will be protected, with a remedial approach applied to the adjacent transitional space.

In addition, the public space around the building will feature an amphitheatre, which the application indicates will be used for performing arts and sites for public art installations.

Focus Area A3 of the CASAP envisages the redevelopment of the Anzac Oval/former Anzac Hill High School and identifies part of the site as a 'potential area for zoning change'.

Planning Principle 13 of the CASAP aims to facilitate appropriate future development of the site which encourages specific land uses, including galleries, public open spaces, water play areas, and ancillary cafes/restaurants and facilities for large community events and festivals. The development proposes several of the uses envisaged by the CASAP including proposed retail and café spaces at ground level, event spaces on level 4 and the 'Kwatye Play' component, a publicly accessible water play environment, a key feature of the development.

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

The site is within Zone CP (Community Purpose) and the zone's purpose is to provide community services and facilities. The proposal is in accordance with the purpose of the zone as it details the development of an exhibition centre which is a community facility listed as desirable in the Clause.

### Clause 5.2.4.1 (Car Parking Spaces)

The Development Assessment Services (DAS) determined, as per the car parking requirements of the NTPS2020, that 249 car parking spaces are required for the proposed use and found that the proposal is not in accordance with Clause 5.2.4.1 as it will result in fewer car parks than required by the NTPS2020. The Authority noted that the applicant argued for a different interpretation of the measurable Gross Floor Area) to the DCA that meant that the car parking provided in the proposal was sufficient but did not provide materials to support that contention. After reviewing the DAS Report and the arguments put by the applicant, the Authority determined, on the materials before it, that the proposal is to provide 177 car parking spaces and that the car parks not provided on site shall be offset via a financial contribution to the Alice Springs Town Council.

Administratively the consent authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to 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.

The Authority considers that the reduced number of car parks will achieve the relevant outcomes (outcome 3) of Zone CP, particularly as the design of the car park allows for high quality landscaping that contributes to the amenity of the area and aids passive surveillance. The Central Alice Springs Area Plan further supports the reduced car parking area as it states that car parking should be ancillary to the use of the subject site and a larger car parking area than proposed risks the car park becoming the primary use of the site.

The Authority notes that, subject to the amended Traffic Impact Assessment referred to in Condition Precedents 3 and 4, the proposal, including proposed road upgrades, will not negatively impact the surrounding road network or the amenity of the area as the upgraded network will have the capacity to continue the unimpeded movement of traffic with the additional traffic generated by the development. There will be sufficient car parks on site and in the surrounding area for visitors of the gallery. The car parking does not impact the heritage on site.

As the proposed development is an Exhibition Centre, The Authority considers that a share of visitors will likely access the site by buses or coaches provided by local tour operators, thus mitigating the need for full compliance with the parking requirements of the NTPS2020 by reducing the demand for individual parking bays. This is supported by the Traffic Impact Assessment lodged by the applicant which claims that peak usage of the site will see 132 vehicle trips to and from the site.

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

Between the site of the proposed development and Parsons Street in the Alice Springs CBD (~300m), as well as on Leichardt Terrace, there are several publically available car parks for any potential overflow from the National Aboriginal Art Gallery. Being located adjacent to the Alice Springs CBD, the site is in proximity to public transport services (several public bus routes pass close to the proposed facility), taxis, public footpaths and cycle paths.

In its comments, the Alice Springs Town Council (ASTC) predicted that there is a high likelihood of visitation to the site by long-wheel base vehicles and caravans due to the common use of such vehicles by tourists visiting the region. The Authority therefore determined that the applicant is to amend the drawings to demonstrate five car parks suitable for long-wheel base vehicles and caravans. Should that amendment result in fewer than 165 car park spaces being provided onsite, the further shortfall is also to be offset via a financial contribution to the Alice Springs Town Council.

### Clause 5.2.4.4 Layout of Car Parking Area

The proposal has been found not to be in accordance with Clause 5.2.4.4 (Layout of parking area) because the proposal will result in a carpark setback 2m from the lot's boundary with the 'service road' to the east which is 1m closer than the 3m setback required.

Administratively the consent authority may consent to a car parking area that is not in accordance with sub-clause 6 if it is satisfied that the non-compliance will not unreasonably impact on the amenity of the surrounding locality.

The reduced setback will be an improvement to the design of the existing carpark which is not setback from the access road. The car park will be partially obscured from view with vegetation and the non-compliant setback is from the site to an infrequently accessed community centre that does not directly look out onto the car park. This proposal results in a 2m vegetated setback between the car park and the site's boundary with an 'access road' which is 1m narrower than that required by the NTPS2020.

### 5.2.5 (Loading Bays)

The Authority notes that the DAS Report indicates that the application is not compliant with Clause 5.2.5 (Loading Bays). Clause 5.2.5 (Loading Bays) of the NTPS2020 generates the need for two loading bays for this proposal. However, it was made clear by the applicant at the meeting that the 'loading bay area' shown on the drawings had the space to accommodate three loading bays of a size meeting the requirements of the NTPS2020. The Authority accepts that the application is compliant with Clause 5.2.5 but the applicant is required to amend the drawings to indicate the siting of loading bays.

3. Pursuant to Section 51(1)(e) of the *Planning Act 1999* the consent authority must take into consideration any submission made in relation to the development application. Four public submissions were received during the exhibition period in addition to comments from the relevant service

## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

authorities and local government council. All of the four public submissions opposed the location of the development and two of the submissions opposed the spending of Government revenue on the project.

Ms Kylie MacFarlane, who attended the meeting and spoke to her submission, queried whether or not Traditional Owners had been invited to the DCA meeting and noted that it was her view that Traditional Owners and Senior custodians had not consented to the development of the site. The submitter further questioned the legitimacy of the consent authority determining the development of the site on this basis.

Mr Rob Dominguez also spoke further to his submission, advising that, whilst he did not object to the facility being built, he objected to the proposed location on ANZAC oval. The submitter also raised his concerns for the safety of users of the 50 Plus Community Centre, of which he is currently president, particularly in regards to how traffic would access and move around the parking areas.

The Authority noted the concerns raised by the submitters; however it cannot address issues raised in relation to the location of the development, Traditional Owners and Senior custodians of the land or the expenditure of government funds, as they fall outside the scope of the *Planning Act 1999*.

The Authority acknowledged the Alice Springs Town Council (ASTC) concerns relating to long-wheel base vehicles and caravans and has required that the applicant amend the drawings to demonstrate five car parks suitable for long-wheel base vehicles and caravans.

In considering the submitters comments regarding traffic, the comments made by ASTC and Transport Civil Services (DIPL) and in discussing the application, the Authority determined that to better inform the design of road upgrades, car parking spaces and car parking management the applicant is required to revise the Traffic Impact Assessment to consider and make appropriate recommendations on:

- The impact coaches departing from the site will have on the local road network;
  - Operational and construction traffic impact to the Stuart Highway and Wills Terrace intersection and any recommended measures that may be required to accommodate or mitigate the traffic impact.
  - Background traffic growth and future year scenarios for up to 10 years.
4. 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 site is connected to reticulated services and, as per the conditions recommended by the service authorities, the proposed development can connect to the services and be sited away from sacred sites. The land is zoned



## Alice Springs DCA Meeting No 284 – Wednesday 8 May 2024

to support the proposed development and the site is accessible to the population of Alice Springs.

Should the development comply with standard permit conditions, it will not affect the flooding of the surrounding area. Further, the site is designed to retain stormwater. The increased traffic generated by this site will be accommodated and not detract from the efficient operation of the surrounding traffic network should the traffic impact assessment be properly implemented.

5. 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 proposed gallery may disrupt some of the view lines between Anzac Hill and Sturt Terrace, Anzac Hill and Wills Terrace and Wills Terrace and the public open space to the North of the subject site (Lot 943), however the impact is considered minor. The replacing of the sports oval with landscaped parkland is considered to have a net neutral impact on the amenity of the site. The Authority determined that, should all the permit conditions be imposed as recommended, the traffic network and reticulated services will not be disrupted.

**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

23 May 2024