



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 238 – WEDNESDAY 10 OCTOBER 2018

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

MEMBERS PRESENT: Suzanne Philip (Chair), Alistair Feehan, Jimmy Cocking

APOLOGIES: David Koch, Marli Banks, Jamie de Brenni

OFFICERS PRESENT: Benjamin Taylor, Fraser Cormack, Julie Driver, Jennie Ryan, Shannon Niland

COUNCIL REPRESENTATIVE: Dilip Nellikat

Meeting opened at 10:30am and closed at 12:40pm

THE MINUTES OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 ALTERATIONS TO MEDICAL CLINIC (UNIT 1)

PA2018/0356 LOT 9211, 61 SMITH STREET, SUBURB OF CICCONE

APPLICANT EDIFICE NT PTY LTD

Development Assessment Services tabled confirmation from the applicant that the pink notification signage was in place for the duration of the exhibition period.

Michael Shaw (Applicant) and Chelsea Lee Petrick (owner) attended the meeting and spoke further to the application.

RESOLVED That the Development Consent Authority varies the requirements of clause
0124/18 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme, and
pursuant to section 53(b) of the *Planning Act*, alters the proposed development
and consents to the proposed development as altered to develop Lot 9211
(61) Smith Street, Suburb of Ciccone, Town of Alice Springs, for the purpose
of change of use for Unit 1 from motor repair station and vehicle sales and hire
to medical clinic (specialist clinic for podiatry and other specialist
health/medical consultants and practitioners), subject to the following
conditions and for the following reasons:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans, including an amended site, 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. Plans must be in Adobe PDF Format and include the following details:
 - a) Exact location of proposed bollards within the Unit 1 car parking area, such that adjacent car parking spaces and driveways comply with minimum length and width dimensions (under clause 6.5.3 (Parking Layout) of the NT Planning Scheme).
 - b) Extent and details of all proposed on-site landscaping and planting (include a planting schedule of all plants, including botanical names, common names, typical size/s at maturity, and quantities of each plant, and include any existing plants to be retained).

Landscaping must either:

- (i) Closely reflect that detailed in the site plan endorsed as part of Development Permit DP04/0437 (as amended through DP04/0437A);
or
- (ii) Include all landscape areas identified in the site plan endorsed as part of DP04/0437 as amended through DP04/0437A with the exception of a narrow strip between the driveway access to Unit 1 and the western-most parking space in the common property parking area, which has been concreted over; and
- (iii) Maintain sight lines to and from the site adjacent to vehicle access points; and
- (iv) Limit impacts of the parking areas on views from adjoining streets; and

- (v) Provide good passive surveillance opportunities to, from and through the site; and
- (vi) Contribute to and/or enhance the amenity of the streetscape.

Written agreement from the Body Corporate for Unit Plan U2006/021 to allow any proposed changes to previously approved plans for landscaping and parking layout within the common property area of Lot 9211 is required to be provided as part of the conditions precedent response.

The consent authority encourages the applicant to consider relocating the 'disabled accessible' parking space to the eastern end of the parking area and designing the space to comply with the National Construction Code, as part of the Conditions Precedent response, notwithstanding that the change may result in the loss of a car parking space.

The consent authority further notes and commends the Alice Springs Town Council's initiative to encourage the consideration of landscaping works within the Smith Street road reserve with a view to enhancing the amenity of the street, streetscape and locality and encourages the owners of Lot 9211 to take advantage of the opportunity.

Amended plans and associated supporting documentation prepared in response to the conditions precedent may be submitted to the Development Consent Authority C/- Development Assessment Services, DIPL (Alice Springs Branch) via email to DAS.NTG@nt.gov.au. When endorsed, the plans will form part of the permit.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities, to the development in accordance with the authorities' requirements and relevant legislation at the time.
4. Landscaping shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the consent authority, before a certificate of compliance for this permit is granted.
5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
6. 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 driveways and the public streets. This condition is to the satisfaction of the consent authority on the advice of the relevant road authorities.
7. Stormwater is to be collected and retained on the site and/or discharged into the drainage network to the technical standards of and at no cost to the Alice Springs Town Council, to the satisfaction of the consent authority.

8. The medical clinic is approved as a specialist clinic for podiatry and other specialist health consultants and practitioners and is not approved for use as a general practice medical clinic or general practice dental clinic.
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. All air conditioning units (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
11. Any required substation and/or fire booster arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation and NT Fire and Emergency Services.

NOTES:

1. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of Australia, the *NT Public Health Act* and Regulations.
2. The proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*.
3. A "Permit to Work Within a Road Reserve" may be required from the Alice Springs Town Council, before commencement of any work within the road reserve.
4. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council.
5. This development permit does not grant "building approval" for the proposed works 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.
6. 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.
7. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

REASONS

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The proposed medical clinic development and use, as approved, is considered appropriate to Zone SC (Service Commercial) of the Northern Territory Planning Scheme and is considered consistent with relevant policy and reference documents under the Scheme, in the context of the established development of the locality and the characteristics of the site, subject to suitable refinements to landscaping and car parking.
2. Having considered the matters listed in Clause 6.5.2 (Reduction in Parking Requirements), a variation to Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme is granted in this instance, as the objective of the clause is expected to be met subject to a condition limiting the clinic to specialist consultation (podiatry and other specialist health consultants and practitioners) and not allowing use as a general practice medical clinic or general practice dental clinic, as:
 - a) There are 2 bus stops for regular bus services within 330 metres of the property;
 - b) It is envisaged that some clients and staff will travel to the clinic by community bus service, taxi, foot, bicycle or public transport or 'drop-off and collection', limiting the demand for on-site car parking.
 - c) The parking provided on Lot 9211 is expected to be adequate to meet the needs of the existing light industry and showroom sales uses and the proposed medical clinic use.
 - d) There are 29 car parking spaces within the road reserve on the service road to the southern side of Smith Street, providing some capacity for overflow parking if required.
 - e) The application seeks consent for a podiatry clinic, a specialist clinic which may be expected to generate less appointments per day for each specialist than would be expected for a general medical or dental practice.

The above circumstances are considered to justify the granting of a variation to clause 6.5.1.

3. Pursuant to section 51(e) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account any submissions made under section 49 of the Act and any evidence or information received under section 50 of the Act. The application was publicly exhibited in accordance with the *Planning Act* and Regulations and no public or local authority submissions were received under section 49 of the Act.
4. Pursuant to section 51(h) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account the merits of the proposed development as demonstrated in the application. The application identifies that the medical clinic is providing a health care choice/service to the Alice Springs community.
5. Pursuant to section 51(j) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account the capability of the land to which the proposed development

relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development. The land is expected to be capable of supporting the proposed development without undue impact on other land.

6. Pursuant to section 51(m) of the *Planning Act*, the consent authority must 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 may be expected to assist in ensuring that the Alice Springs Town Council and the Power and Water Corporation's requirements and interests are duly addressed.
7. Pursuant to section 51(n) of the *Planning Act* the consent authority must take into consideration the potential impact of development on the existing and future amenity of the area in which the land is situated. The proposed development and use, as approved, is not expected to have any adverse impact of the amenity of other properties, the locality or any streetscape.
8. Pursuant to section 51(p) of the *Planning Act* 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 conditions of approval includes measures intended to encourage upgrades to the parking layout to better service the needs of persons with a disability and recognise the benefits of providing good passive surveillance opportunities to and from land through appropriate landscaping.

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

ITEM 2 **17 X 2 BEDROOM MULTIPLE DWELLING IN 6 X 1 STOREY BUILDINGS**

PA2018/0339 **LOT 10742, 52 PALM CIRCUIT, SUBURB OF ROSS**

APPLICANT **AUSTRALIAN PROPERTY PROJECTS PTY LTD**

RESOLVED
0125/18

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Lot 10742, 52 Palm Circuit, Suburb of Ross, Town of Alice Springs for the purpose of 17 x 2 bedroom multiple dwellings in 6 x 1 storey buildings to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

1. revised design that complies with the maximum dwelling density requirements of sub-clause 2 of Clause 7.1.1 (Residential Density Limitations) of the NT Planning Scheme;
2. updated design of private open space areas such that the Authority can be satisfied that the criteria contained in sub-clause 2 of Clause 7.5 (Private Open Space) of the NT Planning Scheme will be complied with;

3. dwelling design compliant with the performance criteria contained in sub-clause 2(a) of Clause 7.3.1 (Additional Setback Requirements for Residential Buildings Longer than 18m) of the NT Planning Scheme;
4. Details of any proposed retaining walls for Units 8, 9, 10 and 11;
5. Clarification of proposed surface treatments of private open space areas
6. Proposed locations of air conditioning units shown on drawings
7. updated elevations of buildings, indicating finished floor levels, existing and finished ground levels, building materials and external finishes;
8. Sufficient cross-sections and longitudinal sections to show the relationship between structures and their respective heights above “ground level” of the site as defined in the NT Planning Scheme.
9. Clearance letter/report from a qualified person experienced in the investigation and assessment of contaminated land that the site is suitable for its intended land use of multiple dwellings (this is to be prepared in consultation with the Environment Division of the Department of Environment and Natural Resources).
10. Proposed landscaping details for the development, such that the consent authority can be satisfied that the criteria and objectives contained in Clauses 6.12 and 7.7 of the NT Planning Scheme can be met.

REASONS

1. Pursuant to section 51(a) of the *Planning Act*, in considering a development application, the consent authority must take into account the planning scheme that applies to the land to which the application relates. The NT Planning Scheme applies to the development of the subject site. The proposal does not comply with the dwelling density control given by Clause 7.1.1 (Residential Density Limitations) of the NT Planning Scheme. The density is 2.67 dwellings over the maximum permitted for single storey multiple dwellings in Zone TC and the proposed design does not fully comply with the minimum standards contained in Part 4 of the Scheme.

The multiple dwellings (as presented in the application) design has not given adequate consideration and design response to the criteria contained in sub clause 3 of Clause 7.1.1.

The required additional information is considered necessary in order for a proper consideration of the application to be undertaken, particularly reduced density that complies with the purpose and performance criteria requirements of:

- Clause 7.1.1 (Residential Density Limitations):
 - Clause 7.3.1 (Additional Setback Requirements for Residential Buildings longer than 18m)
 - Clause 7.5 (Private Open Space)
- of the NT Planning Scheme.

2. Pursuant to section 51(d) of the *Planning Act*, in considering a development application, the consent authority must take into account an environment protection objective as defined in section 4(1) of the Waste Management and Pollution Control Act that is relevant to the land to which the application relates. Noting the history and use of the site and abutting property (Lot 10741) comments received from the Environment Division of the Department of Environment and Natural Resources (dated 01/10/2018) have recommended that a qualified person experienced in the

investigation and assessment of contaminated land provide a clearance that the site is suitable for its intended land use.

ACTION: letter for deferral to be sent to applicant and service authorities

ITEM 3 **1. CHANGE OF USE FROM “HOSTEL” TO 36 X 1 BEDROOM MULTIPLE DWELLINGS IN A TWO STOREY BUILDING INCLUDING ALTERATIONS AND ADDITIONS TO BUILDINGS, CAR PARKING AREAS, LANDSCAPING, PRIVATE AND COMMUNAL OPEN SPACE.**

2. SUBDIVISION FOR THE PURPOSE OF A UNIT TITLES SCHEME (36 UNITS AND A COMMON PROPERTY AREA)

PA2018/0351 **LOT 1759, 3 LARAPINTA DRIVE, SUBURB OF GILLEN**

APPLICANT **WALARU DISCRETIONARY TRUST**

Mr Ian Brashaw (UrbanPlan) attended the hearing on behalf of the applicant and spoke further to the application.

RESOLVED That, pursuant to section 53(c) of the *Planning Act*, the Development Consent
0126/18 Authority refuse to consent to the application to develop Lot 1759, 3 Larapinta Drive, Suburb of Gillen, Town of Alice Springs for the purpose of change of use from “hostel” to 36 x 1 bedroom multiple dwellings in a two storey building including alterations and additions to buildings, car parking areas, landscaping, private and communal open space for the following reasons:

1. Pursuant to section 51(a) of the *Planning Act*, 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:
 - a) The subject land is zoned MR (Medium Density Residential) under the NT Planning Scheme. The application seeks permission to redevelop the and change the use the land for the purposes of a multiple dwellings, such use being a discretionary use under the applicable terms of Zone MR. Whilst the proposed land use is consistent with the purpose of Zone MR, the consent authority determined that the number and extent of non-compliances with the performance criteria contained in Part 4 of the NT Planning Scheme was due to an overdevelopment of the site and therefore, pursuant to the requirements of:
 - sub-clause 3 of Clause 7.1.1 (Residential Density Limitations); and
 - sub-clause 3 of Clause 2.5 (Exercise of Discretion by the Consent Authority)of the Scheme, and section 52(1)(b) of the *Planning Act*, a variation to Clause 7.1.1 could not be supported.
 - b) The proposal does not comply with the dwelling density control given by Clause 7.1.1 (Residential Density Limitations) of the NT Planning Scheme and the change of use to multiple dwellings is considered to be an overdevelopment, not giving adequate consideration and design response to the criteria contained in sub clause 3 of Clause 7.1.1.
 - i) The site has an area of 3390m², Table C to Clause 7.1.1 gives a density control for two storey buildings at 200m² for multiple dwellings on land zoned MR in Alice Springs. Based on Clause 7.1.1, the proposed

development (change of use) of the hostel into 36 multiple dwellings would require a site area of 7200m². This means that the dwelling density exceeds what is allowable by the Northern Territory Planning Scheme by ~122.22% (3810m² or 19.2 dwellings).

- ii) With regard to the objectives outlined in sub-clause 1 of Clause 7.1.1, service authority comments from the Power and Water Corporation indicate that the proposed change of use and density is compatible with the existing and planned provision of reticulated services which service the area, subject to the developer complying with standard technical requirements. Current flood mapping indicates that the subject site is not liable to inundation in a 1% AEP Defined Flood Event. The site is not a declared heritage place and the Department of Environment and Natural Resources did not identify any land capability constraints with respect to drainage, slope or soil characteristics.

The inability of the development to comply with the density control is rather an indication of further non-compliances with Part 4 of the NT Planning Scheme.

- c) Having considered the requirements of Clause 6.5.2 (reduction in Parking Requirements) of the NT Planning Scheme, a reduction to the car parking required by Clause 6.5.1 (Parking Requirements) is not supported as:
 - i) No evidence is provided, in the form of a traffic assessment or car parking study to support the argument that the provision of 1 bedroom multiple dwellings should not incur a requirement of 2 car parking spaces, as stipulated in the NT Planning Scheme;
 - ii) Notwithstanding that an area for parking of motorcycles and communal storage for residents' bicycles is included in the design (including amended drawings tabled at the 10/10/2018 meeting), the shortfall in available on-site car parking bays is significant, providing 51.38% of the requirement which is evidence of the proposed change of use being an overdevelopment of the site.
- d) The development does not comply with sub-clause 2(a) of Clause 7.3.1 (Additional Setback Requirements for Residential Buildings longer than 18m) of the NT Planning Scheme. The Authority is not satisfied that the design of the development adequately mitigates the adverse effects of building massing and visual bulk that may arise from the western façade of the building. Pursuant to the requirements of sub-clause 5 of Clause 7.3.1 and sub-clause 3 of Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Scheme, a variation to Clause 7.3.1 could not be supported
- e) The proposal does not comply with Clause 7.5 (Private Open Space) of the NT Planning Scheme, as all proposed dwellings require one or more variations to the minimum dimension, area or open to the sky requirements of the clause, also indicating the proposal's inability to provide for adequate access to natural light, not being of an adequate size to provide for domestic purposes or enabling an extension of the function of the dwelling. All private open space areas for ground level dwellings were substantially less than the 45m² area requirement. The consent authority identified no special circumstances in relation to the site or proposed development as per sub-clause 4 of Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Scheme in regard to justifying granting consent to the areas of non-compliance.
- f) The Authority noted that the proposal as publicly exhibited (and amended drawings tabled at the 10/10/2018 meeting) included communal open space

that was well in excess of the requirements of Clause 7.6 (Communal Open Space) of the Scheme but concluded that this space did not compensate for reduced areas of private open space nor did it provide adequate justification for the other areas of non-compliance. In addition the Authority noted that a design that is compliant with the relevant requirements of the Scheme is likely to offer increased amenity to the existing residents of nearby developments and future residents of the subject development.

- g) Larapinta Drive is a “main road” (as defined in the NT Planning Scheme), the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics is the agency responsible for the care control and maintenance of Larapinta Drive. Sub-clause 2 of Clause 13.2 (Land Adjacent to Main Roads) of the Scheme specifies that access to a use or development or proposed use or development from a main road is to be only with consent and in accordance with the responsible Agency. The consent authority noted the amended drawings tabled at the 10/10/2018 meeting showed a revised car parking and driveway layout (retaining the existing vehicle crossover to the site).
 - h) The proposal is inconsistent with the Community Safety Design Guide (which must be considered by virtue of clause 2.8 (Reference to Guidelines) of the NT Planning Scheme), a key objective of which is "to ensure that development contributes to the safety of areas by optimising the opportunities to provide passive surveillance of public spaces, communal areas, streets and car parks". The frontage of the site to Larapinta Drive will be screened with 1.8m (or higher) solid (not visually permeable) fencing negating any opportunities for passive surveillance to and from the car park and public spaces. In the case of ground level dwellings, fencing to private open space obstructs surveillance opportunities to communal open space areas.
2. Pursuant to section 51(n) of the *Planning Act*, in considering a development application the consent authority is required to take into account the potential impact on the existing and future amenity of the area in which the land is situated. The design gives a poor amenity outcome for future (permanent) occupants of the multiple dwellings and for the surrounding area in terms of natural light, floor area, ventilation and access to and quality of private open space. The poor amenity outcomes for future residents and the lack of compliance with the minimum standards for development contained in Part 4 of the NT Planning Scheme also confirm that the proposal is inconsistent with the relevant objectives of the NT Planning Scheme and lacks sufficient merit.

ACTION: DAS to prepare Notice of Refusal

**RESOLVED
0127/18**

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Lot 1759, 3 Larapinta Drive, Suburb of Gillen, Town of Alice Springs for the purpose of subdivision for the purpose of a Unit Titles Scheme (36 units and a common property area) for the following reasons:

1. Pursuant to section 51(a) of the *Planning Act*, in considering a development application, the consent authority must take into account the planning scheme that applies to the land to which the application relates. The NT Planning Scheme applies to the land and the development application sought consent pursuant to Clause 2.6 of the Scheme to allow subdivision for the purposes of a Unit Title Scheme. The application was submitted in parallel with Development Application

PA2018/0351 (change of use from “hostel” to 36 x 1 bedroom multiple dwellings in a two storey building including alterations and additions to buildings, car parking areas, landscaping, private and communal open space). The consent authority has refused to consent to the application for the change of use (Notice of Refusal NR18/00xx refers). Consequently, approval of the subdivision proposal (as lodged) is not considered appropriate as it is not consistent with sub-clauses 1 and 2 of Clause 11.1.5 (Subdivision for the Purposes of a Unit Title Scheme) of the NT Planning Scheme.

2. Pursuant to section 51(q) of the *Planning Act*, in considering a development application for a proposed subdivision of land on which a building is, or will be situated, the consent authority is required to take into account whether the building complies, or will comply, with any requirements prescribed by regulation in relation to the building (including, for example, requirements about the structural integrity and fire safety of the building). The statement from a building certifier included with the application did not address the matters listed in sections 46(3)(k) & (l) of the *Planning Act*, such that the Authority could be satisfied that the matters listed in section 51(q) of the *Planning Act* and 8C of the *Planning Regulations* can be complied with.

ACTION: DAS to prepare Notice of Refusal

ITEM 4 ALTERATIONS AND ADDITION TO AN EXISTING HOTEL, INCLUDING 4 DEMOUNTABLE STRUCTURES

PA2018/0367 LOT 9304, 123 GAP ROAD, SUBURB OF THE GAP

APPLICANT MASTERPLAN NT

Development Assessment Services tabled comment from NT Fire and Rescue Services and the Department of the Attorney-General and Justice (Licencing, Regulation and Alcohol Strategy).

Joe Sheridan (applicant) and Paul Graham (Asbuild) attended the meeting and spoke further to the application.

**RESOLVED
0128/18**

That the Development Consent Authority, varies the requirements of Clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme, and pursuant to section 53(b) of the *Planning Act*, alters the proposed development and consents to the proposed development as altered to develop Lot 9304, (123) Gap Road, Suburb of The Gap, Town of Alice Springs, for the purpose of outdoor entertainment area additions to an existing hotel (including 4 modified demountable structures (transport containers), shade structures, a cinema screen and landscaping), subject to the following conditions and for the following reasons:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation) amended plans, including an amended site plan, 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. Plans must be generally consistent with the plans publicly exhibited, drawn to scale, in Adobe PDF Format and detail all proposed fencing including any existing fencing proposed to be retained (including height and building materials):

- between Lot 9304 and Lot 9305; and
 - immediately surrounding the proposed outdoor entertainment area (if any).
- Fencing and any new planting should reflect due regard to the Community Safety Design Guide (as referenced in the NT Planning Scheme).

The consent authority notes encroachment of existing hotel works and landscaping into adjoining road reserve/s and encourages the owners to liaise with the responsible road authorities with a view to addressing the matter.

Amended plans and associated supporting documentation prepared in response to the conditions precedent may be submitted to the Development Consent Authority C/- Development Assessment Services, DIPL (Alice Springs Branch) via email to DAS.NTG@nt.gov.au. When endorsed, the plans will form part of the permit.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply facilities and electricity and telecommunication services and the management and disposal and/or discharge of trade waste to the development shown on the endorsed drawings in accordance with the authorities' requirements and relevant legislation at the time.
4. Landscaping shown on the endorsed landscape plan/s must be carried out and completed to the satisfaction of the consent authority, before a certificate of compliance for this permit is granted.
5. Signage shall be placed on Lot 9304 and Lot 9305 identifying:
 - a) The availability of overflow car parking on adjoining Lot 9305 for hotel patrons; and
 - b) That the parking area is available for use by hotel and caravan park patrons.
6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
7. 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 driveways and the public streets. This condition is to the satisfaction of the consent authority on the advice of the relevant road authorities.
8. Stormwater is to be collected and retained on the site and/or discharged into the drainage network to the technical standards of, and at no cost to, the relevant road authorities, to the satisfaction of the consent authority.
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. Any floodlighting or security lighting provided on site should be shielded in a manner to prevent the lighting causing nuisance to South Terrace road traffic. This condition is to the satisfaction of the consent authority on advice from the relevant road authority.

11. Dust control measures must be employed throughout the construction stage, such that dust does not leave the site and result in any loss of amenity to any other property. This condition is to the satisfaction of the consent authority.
12. Before issue of a Certificate of Compliance (section 65 of the Planning Act), pursuant to section 91 of the Land Title Act, a "right of way" car parking easement shall be registered on the Title of Lot 9305, Alice Springs, including the 'overflow parking area' and vehicle access between Lot 9304 and that parking area (generally consistent with the drawing numbered 'SD 1.02 TP1' and included in the application approved through this permit, but including a driveway between Lot 9304 and the parking area on Lot 9305). This condition is to the satisfaction of the consent authority.
13. The parking area on adjoining Lot 9305 that is located within a right-of-way easement on Lot 9305 and in favour of Lot 9304 is to be constructed and maintained in accordance with plans endorsed as part of Variation of Conditions permit DP11/0031A and be available for usage by patrons and staff of both lots.

NOTES:

1. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of Australia, the *Disability Discrimination Act*, the *NT Liquor Act*, the *NT Public Health Act* and Regulations, the *NT Food Act* and National Food Safety Standards.
2. The proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*.
3. A "Permit to Work Within a Road Reserve" may be required from the relevant road authority, before commencement of any work within a road reserve.
4. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council.
5. This development permit does not grant "building approval" for the proposed works 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.
6. 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.
7. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

8. This development permit does not grant approval for material alterations to a licensed premises. You are advised to contact the NT Liquor Commission (<https://justice.nt.gov.au/regulatory-services/licensing-boards,-committees-and-advisory-councils/liquor-commission/liquor-licence-applications>) concerning requirements relating to altering or obtaining an appropriate licence.
9. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act 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.

REASONS

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The proposed development and use, as approved, is considered appropriate to Zone TC (Tourist Commercial) of the Northern Territory Planning Scheme and is considered consistent with relevant policy and reference documents under the Scheme, in the context of the established development of the locality and the characteristics of the site, subject to the provision of overflow car parking on adjoining Lot 9305.
2. Having considered the matters listed in Clause 6.5.2 (Reduction in Parking Requirements) of the NT Planning Scheme, a variation to Clause 6.5.1 (Parking Requirements) is granted in this instance, as:
 - a) The proposed development will complement the existing hotel, providing additional options for entertainment on the site without significantly increasing the empirical demand for car parking at peak times;
 - b) The proposed development and use may increase usage of the existing on-site car parking at current 'off-peak' times, but is expected to be suitably serviced in terms of car parking, by the provision of 29 on-site parking spaces and right-of-use to an additional 28 overflow parking spaces on Lot 9305; and
 - c) The objective of the clause is expected to be met subject to the provision of 29 on-site parking spaces and right-of-use to an additional 28 overflow parking spaces on Lot 9305.

The above circumstances are considered to justify the granting of a variation to clause 6.5.1.

3. The consent authority:
 - a) notes that the proposed demountable structures (transport containers) will be:
 - (i) substantially screened by existing landscaping (including trees and shrubs) on the site and in the adjoining road reserve, which is proposed to be retained;
 - (ii) substantially setback from South Terrace; and
 - (iii) modified and architecturally embellished; and
 - b) expects the above factors to assist in ensuring that the transport containers are integrated into the streetscape and will not frustrate the purpose of clause 6.8 (Demountable Structures) of the Planning Scheme, which is to ensure that demountable structures do not detract from the visual amenity of an area.

4. Pursuant to section 51(e) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account any submissions made under section 49 of the Act and any evidence or information received under section 50 of the Act. The application was publicly exhibited in accordance with the *Planning Act* and Regulations and no public or local authority submissions were received under section 49 of the Act.
5. Pursuant to section 51(h) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account the merits of the proposed development as demonstrated in the application. The application contends/anticipates that:
 - a) The proposal:
 - (i) Serves the purpose of the land which it is zoned for by providing a revitalisation of the hotel land use that exists on site;
 - (ii) Will cater to the current and future patrons of the Gap View Hotel and will enhance the amenity of the site;
 - (iii) Will positively improve the appearance of the site and, where visible to the street, will be a positive improvement to the streetscape itself; and
 - b) The design is sympathetic in terms of bulk and scale, and will enhance the usability of the existing hotel by providing an additional outdoor area in what is currently underutilised space.
6. Pursuant to section 51(j) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development. The land is expected to be capable of supporting the proposed development without undue impact on other land.
7. Pursuant to section 51(m) of the *Planning Act*, the consent authority must 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 may be expected to assist in ensuring that service authority requirements and interests are duly addressed.
8. Pursuant to section 51(n) of the *Planning Act* the consent authority must take into consideration the potential impact of development on the existing and future amenity of the area in which the land is situated. The premises are already licensed and used as a hotel and the proposed development and use are not expected to result in any significantly different impact on the amenity of residential properties in the locality by virtue of noise and or light emissions.

While acknowledging the potential for some adverse noise impacts on residential properties in the locality, if the outdoor entertainment area of the hotel is not appropriately managed, the consent authority noted advice/confirmation from the Department of the Attorney-General and Justice (Licencing, Regulation and Alcohol Strategy) in relation to the development application to the effect that:

- a) The Gap View Hotel holds a liquor licence with an authority of Public Hotel and although the License does not contain a noise condition as such, the licensee is required to comply with the *Public and Environmental Health Act* and any other NT legislation that has legislation pertaining to excessive noise.
- b) If a complaint was to be received about excessive noise, that complaint would be investigated and referred to the NT Liquor Commission with a view

of disciplinary proceedings. What penalty would be imposed would be at the discretion of the NT Liquor Commission.

- c) Other agencies can also take appropriate action if they are notified of a noise complaint.
- d) If the development application was approved by the Development Consent Authority, the licensee of the premises would then be required to make an application for a material alteration to licensed premises in accordance with Section 119 of the Liquor Act. This application is required to be made to the Director-General of Licensing and include a range of material and documents, including Development Consent Authority approval of a development application and any other building permits or approvals. Generally speaking that application would then be publicly advertised and open to the receipt of objections from the public, if any. Grounds for objection can be found at Section 47F (2) and includes a ground of objection based on amenity of the neighbourhood and also social conditions. At the end of the processing of the application, the Director-General must refer the application to the NT Liquor Commission to consider with a view to approve or refuse the application. The NT Liquor Commission is an independent body from Licensing NT where the latter has no say over the decision making process. In theory, the NT Liquor Commission can approve an application such as a material alteration but also incorporate other specific conditions as part of the approval into the written Decision Notice.

The consent authority has concluded that in the circumstances as described above and applicable to the existing hotel at Lot 9304 Gap Road, Alice Springs, existing legislation other than the *Planning Act* (including, but not limited to the *Liquor Act* and the *Public and Environmental Health Act*) provides more appropriate mechanisms for ensuring that noise associated with the use of the proposed outdoor entertainment area is appropriately managed to protect the amenity of residences in the locality and that a development permit condition relating to noise management is not warranted.

- 9. Pursuant to section 51(p) of the *Planning Act* the consent authority must take into consideration the public interest. The design is considered in general terms to respond positively to the Community Safety Design Guide which is a referenced document. The conditions and notes are intended to assist in ensuring that any new fencing and landscaping responds positively to the Design Guide. The consent authority noted the applicant's advised intent to comply with the *Disability Discrimination Act* with respect to accessibility to the outdoor entertainment area.

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

ITEM 5 CHANGE OF USE FROM OFFICES TO OFFICES AND MEDICAL CLINIC
PA2018/0347 LOT 187, 79 BATH STREET, TOWN OF ALICE SPRINGS
APPLICANT KERRI-ANNE & HILTON CHILVERS

The applicant did not attend the meeting

**RESOLVED
0129/18**

That, the Development Consent Authority varies the requirements of Clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consents to the application to develop Lot 187 (79) Bath Street, Town of Alice Springs, for the purpose of a change of use to medical clinic and offices, subject to the following conditions and for the following reasons:

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, sewerage and electricity facilities, in accordance with the authorities' requirements and relevant legislation at the time, to the satisfaction of the consent authority.
3. Before the use commences the owner/developer must, in accordance with section 70(3) of the *Planning Act*, provide 6 car parking bays. In accordance with section 70(5) of the *Planning Act*, 2 of the required parking bays are to 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*.
4. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
5. 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.
6. All proposed works impacting on Bath Street or rear laneway to Lot 187 are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of the Alice Springs Town Council. Drawings 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".

NOTES:

1. This development permit does not grant "building approval" for the proposed works 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 permit holder is advised that it is an offence to carry out work on, disturb or destroy declared places without consent under the *Heritage Act*. The land owner/developer should contact the Heritage Branch of the Department of Tourism and Culture to ascertain requirements of the Heritage Act prior to commencing any demolition or construction works.
3. A "Permit to Work Within a Road Reserve" may be required from *Alice Springs Town Council* before commencement of any work within the road reserves (Bath Street and rear laneway).

4. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council.
5. 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.
6. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
7. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act 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.
8. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the NT *Public Health Act* and Regulations, the NT *Food Act* and National Food Safety Standards.
9. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Aboriginal Sacred Sites Act*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
10. Prior to applying for building approval and works commencing, it is recommended that the land owner / developer engage the services of a Licensed Surveyor to carry out a boundary identification survey to identify where the true boundaries of the site are in relation to existing and proposed fences and buildings on the land. This information could then be used for the purposes of section 6 of the Building Regulations.
11. This permit will expire if one of the following circumstances applies:
 - (a) the development and use is/are 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.

REASONS

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The proposed medical clinic development and use, as approved, is considered appropriate to Zone TC (Tourist Commercial) of the Northern Territory Planning Scheme and is considered consistent with the policy for the zone in the context of the established development of the locality, the

characteristics of the site and the objectives of the Area Plans referred to in Part 8 of the Scheme.

2. An assessment against Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme identifies that the proposed development and change of use has a requirement for 11 car parking spaces. A reduction to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is considered suitable as:
 - a) The subject site is part of a declared heritage place under the Heritage Act and the heritage status of the Alice Springs Heritage Precinct supports the reduced provision of on-site car parking, where increased on-site parking would be detrimental to the preservation of the heritage values of the property;
 - b) The availability of public transport within close proximity of the property;
 - c) The proposed clinic/consultation model whereby appointments are generally for longer periods of time (1 hr vs 15 min) which reduces parking turnover/demand;
 - d) The provision on-site of a minimum of 4 spaces, with improved disabled access;
 - e) Pursuant to section 70(3) of the Planning Act a payment in lieu of 2 car parking spaces to ensure that off-site parking will be made available in the locality in the long term; and
 - f) A variation of 5 car parking spaces is considered appropriate given the range of proposed uses.

These circumstances are considered to justify the granting of a variation to clause 6.5.1 and the objective of the clause is expected to be met.

3. Pursuant to section 51(e) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account any submissions made under section 49 of the Act and any evidence or information received under section 50 of the Act. No public submissions were received. The local authority (Alice Springs Town Council) has identified that the subject site is located within a gazetted Parking Contribution Plan referred to in Part 6 of the *Planning Act* and has requested a monetary contribution towards car parking.
4. Pursuant to section 51(h) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account the merits of the proposed development as demonstrated in the application. The application identified merits including:
 - No additional structures or alterations to existing buildings or physical characteristics of land are being proposed; and
 - The development will retain character and appeal of existing structures and landscaping in accord with heritage requirements;
5. Pursuant to section 51(j) of the *Planning Act*, in considering a development application the Development Consent Authority is required to take into account the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development. The land is expected to be capable of supporting the proposed development without undue impact on other land.
6. Pursuant to section 51(m) of the *Planning Act*, the consent authority must 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 relevant roads and stormwater drainage authorities have not identified any concerns or requirements and the conditions of approval may be expected to assist in ensuring that the Power and Water Corporations requirements are duly addressed.

7. Pursuant to section 51(n) of the *Planning Act* the consent authority must take into consideration the potential impact of development on the existing and future amenity of the area in which the land is situated. It is not envisaged that the proposed medical clinic and offices will adversely impact on the amenity of adjoining properties or the locality.
8. Pursuant to section 51(r) of the *Planning Act*, in considering a development application the Development Consent Authority must take into account any potential impact on natural, social, cultural or heritage values. The site is part of a declared heritage place (Alice Springs Heritage Precinct), an advisory note is included on the permit to remind the land owner/applicant to obtain any approvals required under the *Heritage Act*.

ACTION: DAS to prepare Notice of Consent and Development permit

**ITEM 6 CHANGE OF USE TO A LEISURE AND RECREATION FACILITY
(CROSSFIT GYM)**

PA2018/0362 LOT 1562, 18 WILKINSON STREET, SUBURB OF CICCONE

APPLICANT STACEY MEANEY

Stacey Meaney (Applicant) and Ashley Augey attended the meeting and spoke further to the application.

Joe Sheridan (Masterplan) and Scott Fell (Submitter LWB) attended the meeting and spoke further to their submission.

Stacey Meaney tabled documents including photos, car parking plans and draft Noise Management Plan, land owners authorisation.

Development Assessment Services tabled a letter from SLR Consulting Australia Pty to Life Without Barriers Management.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 6.5.1
0130/18 (Parking Requirements), Clause 6.5.3 (Parking Layout) and Clause 9.1.1 (industrial
Setbacks) of the NT Planning Scheme, and pursuant to section 53(b) of the *Planning Act*, alter the proposed development and consent to the proposed development as altered to develop part of Lot 1562 (18) Wilkinson Street, Suburb of Ciccone, Town of Alice Springs for the purpose of leisure and recreation (CrossFit Gym), subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans, 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 be provided electronically in Adobe PDF format.

The plans must be generally in accordance with the drawings submitted by the applicant on 3 September 2018 and documentation tabled at the 10/10/2018 DCA meeting but modified to show:

- (a) Details and location of an internal acoustic barrier to be installed to limit the potential for noise emissions from the gymnasium/fitness impacting unduly on other occupants of the building;
- (b) An amended floor plan of the proposed development/use clearly identifying the net floor areas of use within the lease area for the gym; and
- (c) Appropriate bicycle parking facilities (a bicycle storage rack or facility with capacity to secure a minimum of four bicycles) contained within the lease area for the gym that does not unduly impact on car parking or pedestrian circulation.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. Prior to the issue of a Certificate of Compliance (section 65 of the Planning Act), a updated Noise Management Plan must be submitted to and approved by the consent authority addressing the use of the property for the purpose of leisure and recreation (gymnasium/fitness centre). The plan should incorporate:
 - (a) Details and specifications of floor coverings proposed to different floor areas, including minimum thickness of floor covering to any free-weights area;
 - (b) A plan for responding to noise complaints, including a complaint lodgement procedure designed to ensure that members of the public are able to report noise issues including:
 - i. 24 hour telephone contact details for centre management (or other nominated persons) suitably displayed outside the premises;
 - ii. An address for correspondence to management in relation to noise issues;
 - iii. Recording mechanisms of complaints received and actions undertaken;and
 - (c) Strategies for promoting noise awareness by gymnasium/fitness centre users and staff.

When approved, the Noise Management Plan will be endorsed and form part of the permit.

4. Noise from the gymnasium/fitness centre must be managed at all times in accordance with the noise management plan endorsed as part of this development permit, to the satisfaction of the consent authority.
5. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street. this condition is to the satisfaction of the consent authority on advice from the
6. 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.

7. Any proposed works impacting on Wilkinson Street or Milner Road are to be designed, supervised and certified on completion in accordance with the standards and specifications of the Alice Springs Town Council. Drawings 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".

NOTES:

1. The Alice Springs Town Council has advised that on-street parking (verge and carriageway) associated with any use of the site should comply with NT Road Rules in respect to minimum distances from the intersection of Wilkinson Street and Milner Road.
2. 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.
3. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council.
4. This development permit does not grant "building approval" for the proposed structures and use. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements 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.

REASONS

1. Pursuant to section 51(a) of the *Planning Act*, 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. Subject to the receipt of amended drawings and compliance with conditions of approval, the development/use of part of the site as a CrossFit gym is considered to be consistent with the form of development reasonably expected with Zone LI (Light Industry) of the Northern Territory Planning Scheme.
2. A reduction of car parking requirements specified by Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme is supported under Clause 6.5.2 (Reduction in Parking Requirements) in recognition of:
 - There is space inside the shed for 2 staff members to park vehicles in a 'stacked' arrangement;
 - There are 4 parking spaces within the Wilkinson Street frontage immediately in front of the proposed gym;
 - The applicant has identified the busiest times for the gym are mostly outside of business hours, so traffic coming and going is not expected to conflict with other businesses operations, or the availability of car parking spaces at these times;
 - A bicycle rack for a minimum of four bikes is to be provided as an alternative to driving; and
 - The site is reasonably accessible via public bus route along Larapinta Drive.

3. Pursuant to section 51(e) of the *Planning Act*, in considering a development application the consent authority is required to take into account any submissions made under section 49 of the Act and any evidence or information received under section 50 of the Act. One public submission was received about the application. The matters raised in the submission and evidence provided at the 10/10/2018 public hearing have been noted by the consent authority.
4. Pursuant to section 51(m) of the *Planning Act*, in considering a development application the Development Consent Authority must take into account the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities or infrastructure to be provided by the developer for that purpose. The conditions of approval are intended to assist in ensuring service authority interests are duly recognised.
5. Pursuant to section 51(n) of the *Planning Act*, in considering a development application the Development Consent Authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated. The proposed development is appropriate for the zoning, site and locality and subject to the receipt of amended drawings, compliance with conditions of approval, potential adverse impact on the surrounding area will be mitigated. The variations granted to the provisions of Part 4 of the NT Planning Scheme are not expected to contribute greatly to any major disturbance to the level of amenity currently experienced by adjacent and nearby allotments.

ACTION: DAS to prepare Notice of Consent and Development Permit

**ITEM 7 FURTHER CONSIDERATION – 23.25M HIGH TELECOMMUNICATIONS
 FACILITY WITH ASSOCIATED ANTENNAS AND EQUIPMENT SHELTER
 PA2018/0285 LOT 7140, 6 LYNDVALE DRIVE, SUBURB OF LARAPINTA
 APPLICANT OPTUS MOBILE PTY LTD**

Kate Large (Applicant) attended the meeting via telephone link up and spoke further to the application.

Miriam Wallace representing Sophie Higgins spoke further to the comments Sophie lodged after receiving a letter from the Development Consent Authority.

Michelle Vignoni spoke further to the comments she lodged after receiving a letter from the Development Consent Authority.

**RESOLVED That, pursuant to section 53(c) of the *Planning Act*, the Development Consent
 0131/18 Authority refuse to consent to the application to develop Lot 7140 (6)
 Lyndavale Drive, Suburb of Larapinta, Town of Alice Springs for the purpose
 of a 23.25m high telecommunications facility with associated antennas and
 equipment shelter for the following reasons:**

1. Pursuant to section 51(a) of the *Planning Act*, 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 Authority has considered the proposal against the requirements of the NT Planning Scheme and is of the opinion that, the

application should be refused due to its failure to the Scheme requirements as follows :

- (a) The Application is not consistent with the purpose of Clause 13.5 (Telecommunications Facilities) of the NT Planning Scheme as the proposed telecommunications facility will detract from the existing and future amenity of the locality in terms of:
 - i) The proximity of the site to existing residential buildings;
 - ii) The visual bulk of the monopole and equipment shelter; and
 - iii) Absence of any landscape screening;
- (b) The building setback of the proposed telecommunications facility will be 3.15m from the boundary to residential land (Lot 7145, Esther Court – zoned MD (Multiple Dwelling Residential)). The Authority considers that this is not an appropriate response to sub-clause 5(b) of Clause 13.5 of the Scheme with regards to siting of the facility and landscaping. With respect to the zoning of the subject site and adjacent land (Lot 7145), Clause 8.3 of the Scheme specifies that a proposed development that is not a residential building must provide a setback of not less than 5m to the MD zoned land. Sub-clause 3 of Clause 8.3 also specifies a mandatory landscaping depth of 3m to the MD zoned land to provide a visual screen. Pursuant to section 52(1) of the *Planning Act*, it is considered that the Development Consent Authority does not have the discretionary power to approve the building setback and landscaping arrangements proposed within the application.
- (c) Further, and in the alternative, even if the Authority did have power to approve such setbacks, it does not consider that the proposed setback of 3.15 m satisfy the requirements of Clause 13.5 in relation to amenity and that the application fails to demonstrate that the location and design of the telecommunications facility minimises amenity impacts through sensitive siting and appropriate landscaping as required by clause 13.5 (c).
- (d) The Authority further considers, in light of the proximity to residential land, that the Applicant has not demonstrated a sufficiently detailed feasibility assessment in relation to co-located with other telecommunications facilities (or utility infrastructure) as required by sub-clause 5(a) of Clause 13.5 of the Scheme.
- (e) The Authority considers that the Application will have an outcome that is inconsistent with:
 - (i) Planning Principle 4(f) of the NT Planning Scheme which is to ensure development does not unreasonable intrude on or compromise the privacy of adjoining residential uses and ensures its own amenity is not compromised in the future; and
 - (ii) Sub-clause 3(b) of Clause 5.8 (Zone C- Commercial) of the NT Planning Scheme which specifies that development should respect the amenity of adjacent and nearby uses.

Pursuant to section 52(1)(a) of the *Planning Act*, the Authority does not support the proposal.

2. Pursuant to section 51(e) of the *Planning Act*, in considering a development application, the consent authority must take into account any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application. A local authority submission was received from the Alice Springs Town Council and the matters within the submission and verbal evidence given at the 12/09/2018 and 10/10/2018 meeting were duly considered by the consent authority.
3. Pursuant to section 51(n) of the *Planning Act*, in considering a development application the Development Consent Authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated. Due to the height and design of the telecommunications facility, the monopole and antennas are expected to have some impact on the future amenity of the wider Larapinta area irrespective of its siting on the property. Of particular concern to the Authority is the proximity of the proposed telecommunications facility to the dwellings located on the adjacent land (Lot 7145) zoned MD (Multiple Dwelling Residential). The Application is not considered to be an acceptable or reasonable amenity outcome for the site or occupants of adjacent dwellings in terms of separation distance and visual appearance.

In order to assist it in making an assessment of the potential impact on the existing and future amenity of the area in which the land is situated, the Authority invited the owners of the two abutting dwellings (Units 4 and 5, Lot 7145) to provide comment on the proposal. Both unit owners provided written responses to the application and pursuant to section 102 of the *Planning Act*, evidence was heard at the 10/10/2018 Authority meeting.

The Authority notes the evidence of the neighbouring residential owners and the response of the Applicant.

The Applicant referenced the levels of Electro-magnetic energy (EME) exposure limits for telecommunications facilities as set by the Commonwealth *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2014* as the relevant standard set by the ACMA and the Australian Radiation Protection and Nuclear Safety Agency. The Authority notes that an EME Report for the proposed facility was generated and included in the development application showing that the maximum predicted EME will equate to 0.82% of the maximum exposure limit. This is approximately 122 times below the maximum allowable limit.

However, in response to issues raised about amenity and location of the site, the Applicant's response indicated that the site on Lot 7145 was chosen in consultation with the landowner of Lot 7145 and designed so that it does not restrict the current commercial operations on the site or

potentially impede future development of lot 7145. The Authority considers that it was clear from the Applicant's response that little or no consideration was given to the wider question of the impact of the site on the amenity of neighbouring landowners or the locality.

ACTION: DAS to prepare Notice of Refusal

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

SUZANNE PHILIP
Chair

18 October 2018