



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 252 – WEDNESDAY 11 MARCH 2020

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

MEMBERS PRESENT: Suzanne Philip (Chair), Chris Neck, Deepika Mathur,
Jamie de Brenni, Marli Banks

APOLOGIES: Nil

OFFICERS PRESENT: Peter Somerville, Fraser Cormack, Julie Driver

COUNCIL REPRESENTATIVE: Dilip Nellikat

Meeting opened at 10:15 am and closed at 12.35pm

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 AND ADDITIONS TO LIGHT INDUSTRY (INCLUDING NEW CARPORTS, SHADE STRUCTURES, ALTERATIONS TO PARKING LAYOUT)**
PA2019/0503 **LOT 4224, 267 STUART HWY, SUBURB OF STUART**
APPLICANT **DAMIEN GLYNN**

RESOLVED That, the Development Consent Authority varies the requirements of Clause
0024/20 6.5.1 (Parking Requirements), Clause 6.5.3 (Parking Layout), Clause 6.6
 (Loading Bays) and Clause 9.1.1 (Industrial Setbacks) of the NT Planning
 Scheme and pursuant to section 53(a) of the *Planning Act 1999*, consent to
 the proposed development for the purpose of alterations and additions to light
 industry (including 3 x new carports, shade structures, and alterations to
 parking layout) on Lot 4224 (267) Stuart Highway, Suburb of Stuart, Town of
 Alice Springs, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered PA2019/0503/01 to PA2019/0503/09 and endorsed as forming part of this permit.
2. Stormwater is to be collected and contained within the site or discharged into the drainage network to the technical standards of and at no cost to Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics and/or Alice Springs Town Council (as the case may be) to the satisfaction of the consent authority.
3. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Alice Springs Town Council and/or the Department of Infrastructure, Planning and Logistics (as the case may be), to the satisfaction of the consent authority.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, storm water drainage, sewerage, electricity and telecommunication services to the development shown on the endorsed plans in accordance with the authorities requirements and relevant legislation at the time.
5. Any alterations to existing arrangements to kerb crossover/s and driveway/s (works within the Stuart Highway road reserve) to the development approved by this permit are to meet the technical standards of the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
6. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must include a planting schedule

of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. All species selected must be to the satisfaction of the consent authority.

7. 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.
8. Upon completion of any works within or impacting upon the Stuart Highway road reserve, the road reserve shall be rehabilitated to the standards and requirements of the Department of Infrastructure, Planning and Logistics.

NOTES:

1. This development permit does not grant "building approval" for the proposed structures. 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.
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. A "Permit to Work Within a Road Reserve" may be required from Transport Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve/s.
4. 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.
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. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
7. 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 handwriting before the permit expires.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application the consent authority must take into account the planning scheme that applied to the land to which the application relates.

The nature of operations are consistent with the purpose of Zone LI (Light Industry) of the NT Planning Scheme, being to provide for light industry uses or development activities that will not by the nature of their operations, detrimentally affect adjoining or nearby land. With the exception of Clause 6.5.1 (Parking Requirements), Clause 6.5.3 (Parking Layout), Clause 6.6 (Loading Bays), and Clause 9.1.1 (Industrial Setbacks), the proposed alterations and additions to the site are seen to be generally compliant with all other objectives and provisions of the Scheme.

2. A variation to Clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme to allow 5 informal car parking spaces at the Stuart Highway frontage where the Scheme requires 13 car parking spaces is supported as:
 - The site is currently used as 'depot' storage only;
 - The development allows for 13 medium to heavy vehicle parking/storage areas with the new carports providing undercover/weather protection;
 - Customer and staff parking is not required as the site does not operate as a sales outlet, office or warehouse;
 - There are 5 informal (gravelled but not line-marked) parking spaces available in front of site, off the Stuart Highway frontage
 - Space is available for informal parking throughout the site, in variable locations due to heavy vehicle/equipment storage needs at the time; and
 - Surface has been dust suppressed with compacted gravel
3. A variation to Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, to waive the requirements for a designated, sealed and line-marked parking layout, is supported as:
 - The lot is used for off-site storage of plumbing equipment and vehicles;
 - The site does not offer any retail services to the public;
 - The site is not staffed; and
 - The site is not used on a day-day basis.
4. A variation to Clause 6.6 (Loading Bays) of the Northern Territory Planning Scheme to allow the lot to be used without a formal 7m x 3.5m loading bay where 1 loading bay is required is supported as:
 - A formal, line-marked bay is not required as the whole area is generally used as a loading/unloading area;
 - The site is large enough to cater for storage and delivery of larger items; and

- A clearance of 4m is achievable for all informal loading areas.
5. A variation to Clause 9.1.1 (Industrial Setbacks) of the Northern Territory Planning Scheme to allow:
- a) a reduced front setback for an existing office/indoor storage building of 7.6m where 9m is required;
 - b) a reduced side setback for 1 x caretaker's residence of 1.8m where 3m is required;
 - c) a reduced front setback for 1 x carport of 8.5m where 9m is required; and
 - d) 2 x reduced side setbacks for a post-constructed shade structure of 2.8m, where 5m is required and 1.9m where 3m is required,
- are supported as:
- Most structures on Lot 4224 have existing use rights as their construction preceded the Planning Scheme;
 - There are no access restrictions to the property as there are 2 exit/entry points from the unnamed road; and
 - There were no adverse submissions from service authorities.

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the aforementioned purpose, design and site conditions of the development are considered to be sufficient special circumstances and justify the granting of a variation to Clauses 6.5.1, 6.5.3, 6.6, and 9.1.1 of the Scheme.

6. Pursuant to section 51(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. Matters identified by service authorities are expected to be satisfactorily addressed by standard conditions and advisory notes on the development permit.
7. Pursuant to section 51(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 alterations and additions will contribute to a more orderly arrangement on site of equipment and vehicles. The proposal is therefore not expected to have any significant impact on the amenity of adjoining properties.

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

ITEM 2
PA2019/0504
APPLICANT

CARPORT ADDITIONS TO LIGHT INDUSTRY DEVELOPMENT
LOT 1322 (269) STUART HWY, SUBURB OF STUART
DAMIEN GLYNN

RESOLVED
0025/20

That, the Development Consent Authority varies the requirements of Clause 6.5.1 (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(a) of the *Planning Act 1999*, consent to the proposed development for the

purpose of a carport addition to light industry with a reduced rear setback on Lot 1322, (269) Stuart Highway, Suburb of Stuart, Town of Alice Springs, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered PA2019/0504/01 to PA2019/0504/04 and endorsed as forming part of this permit.
2. Prior to the issue of a Certificate of Compliance (section 65 of the *Planning Act 1999*), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must show a 3m wide landscaping area along the front boundary (where this does not impact on existing accesses (gates) with details a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. All species selected must be to the satisfaction of the consent authority.
3. 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.
4. Any alterations to existing arrangements to kerb crossover/s and driveway/s (works within the Stuart Highway road reserve) to the development approved by this permit are to meet the technical standards of the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
5. Upon completion of any works within or impacting upon the Stuart Highway road reserve, the road reserve shall be rehabilitated to the standards and requirements of the Department of Infrastructure, Planning and Logistics.
6. Stormwater is to be collected and contained within the site or discharged into the drainage network to the technical standards of and at no cost to Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, storm water drainage, sewerage, electricity and telecommunication services to the development shown on the endorsed plans in accordance with the authorities requirements and relevant legislation at the time.

NOTES:

1. This development permit does not grant "building approval" for the proposed structure. 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.

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. A "Permit to Work Within a Road Reserve" may be required from Transport Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve.
4. 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.
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. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application the consent authority must take into account the planning scheme that applied to the land to which the application relates.

The nature of operations are consistent with the purpose of Zone LI (Light Industry) of the NT Planning Scheme, being to provide for light industry uses or development activities that will not by the nature of their operations, detrimentally affect adjoining or nearby land. With the exception of Clause 6.5.1 (Parking Requirements), Clause 6.5.3 (Parking Layout) and Clause 9.1.1. (Industrial Setbacks), the proposed alterations and additions are seen to be generally compliant with all other provisions of the Scheme.

2. A variation to Clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme to allow 5 informal car parking spaces at the Stuart Highway frontage where the Scheme requires 9 car parking spaces is supported as:
 - The site is currently used to by an electrical contractor to carry out repairs and maintenance;

- Customer parking is not required as the site does not operate as a sales outlet, office or warehouse;
 - There are 7 informal (gravelled but not line-marked) parking spaces on-site; and the surface has been dust suppressed with compacted gravel
3. A variation to Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, to waive the requirements for a designated, sealed and line-marked parking layout, is supported as:
 - The site does not offer any retail services to the public;
 - There is ample open space for parking and manoeuvring of vehicles;
 - Vehicles can exit the site in forward gear; and
 - Surface has been dust suppressed with compacted gravel.
 4. A variation to Clause 9.1.1 (Industrial Setbacks) of the Northern Territory Planning Scheme to allow a reduced rear setback for a carport of 1m where 5m is required; is supported as:
 - The reduced setback is not expected to adversely impact on the visual amenity of the locality;
 - The location of the carport allows circulation and manoeuvring space for other vehicles to be maintained;
 - The reduced setback will still allow access to the rear of the site for emergency and security purposes;
 - The size of the structure will allow excavators, water trucks etc. to be stored undercover when not in use;

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the aforementioned purpose, design and site conditions of the development are considered to be sufficient special circumstances and justify the granting of a variation to Clauses 6.5.1, 6.5.3, and 9.1.1 of the Scheme.

5. Pursuant to section 51(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:
 - a) Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics has advised of requirements regarding onsite management of stormwater and access. Any works within the road reserve i.e. alterations to kerb crossovers, driveways, or along the verge require a permit and must be to the approval and satisfaction of the Department; and
 - b) The Power and Water Corporation (PAWC) – Power Services advised any new electrical installations must be carried out by a licensed electrician in accordance with Power and Water’s current Service Rules, Installation Rules and Metering Manual.
6. Pursuant to section 51(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 alterations and additions will contribute to a more orderly arrangement on site of equipment and vehicles. The proposal is therefore not expected to have any significant impact on the amenity of adjoining properties.

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

ITEM 3 FURTHER CONSIDERATION - CONSTRUCT SERVICE STATION AND ALTERATIONS TO EXISTING RESTAURANT
PA2019/0322 LOT 6403 (45) STUART HWY, TOWN OF ALICE SPRINGS
APPLICANT ADELAIDE NOMINEES PTY LTD

Kieron Barnes (EKISTICS), Chris Prosser (Hungry Jacks), Sam Morris (Accord Property), Ben Wilson (CIRQA) and Brad Torgan (Ward Keller) attended the meeting and spoke further to the application.

Sean Loader (St Philips College - Submitter) attended the meeting and reiterate concerns raised in a previous submission.

May Taylor (Regional Director, Transport and Civil Services Alice Springs) attended the meeting and provided background and current status of an investigation into the Schwarz Crescent (re-alignment) Concept.

RESOLVED That, pursuant to section 53(c) of the *Planning Act 1999*, the Development
0026/20 Consent Authority refuse to consent to the application to develop Portion 6403 (45) Stuart Highway, Town of Alice Springs for the purpose of a service station and alterations to an existing restaurant for the following reasons:

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. The Northern Territory Planning Scheme (NTPS) applies to the land and the site is within Zone LI (Light Industry).

Under Clause 5.11 of the NTPS, the primary purpose of Zone LI is to provide for light industry uses and development activity that will not by the nature of their operation, detrimentally affect adjoining and nearby land.

Service station is a discretionary use in the zone according to the NTPS (see Clause 5.11 Zoning Table) and is also subject to consideration of issues under Clause 8.1.4 (Service Stations). That Clause provides, inter alia:

1. *The purpose of this clause is to ensure that service stations do not, because of appearance or the emission of fumes or noise, unreasonably affect the use and enjoyment of adjacent land.*
2. *A site may be developed for a service station only where:*
 - a) *fuel bowsers and any motor repair station associated with the service station, are located at least 20m from any residential or commercial development and visually screened from that development;*
 - b) *fuel bowsers are not closer than 3m to the edge of a road reserve;*
 - c) *the design of the site is such that:*
 - i. *vehicular access and egress does not create a traffic hazard on adjacent roads;*

- ii. *vehicular crossings of the footpath are not more than 9m wide, nor closer than 6m to another vehicular crossing and not closer than 15m to a road intersection; and*
- iii. *inlets to bulk fuel storage tanks are situated so that tankers discharging fuel stand wholly within the site.*

This application has been before the Authority on several previous occasions (9th October, 11th December 2019 and 12th February 2020), the matter having been deferred at those Meetings to obtain further information pursuant to Section 46(4)(b) of the *Planning Act 1999* to enable the Authority to properly consider the application.

The application is for development of a service station to be co-located at 45 Stuart Highway with an existing Hungry Jacks restaurant which will also be upgraded. It proposes driveways to both the Stuart Highway and Schwarz Crescent. Stuart Highway is Zoned Main Road and under the care, control and maintenance of the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (“Transport Division”). Clause 13.2 (Land Adjacent to Main Roads) of the NT Planning Scheme specifies that access to a use or development or proposed use or development from a main road is to be in accordance with the requirements of the agency responsible for the road. In relation to Schwarz Crescent, Alice Springs Town Council (“Council”) is the controlling authority.

Clause 8.1.4, sub-clause 2(c)i, requires that the site may be developed for a service station only where *vehicular access and egress does not create a traffic hazard on adjacent road*. The applicant proposes vehicular access and egress through both the Stuart Highway and Schwarz Crescent. In December 2019, the applicant received in principle support from Transport Division. As part of the requirements for obtaining such support, the applicant provided amended details including plans and a supporting statement which included alternative access in the event of a future closure of Schwarz Crescent. The fresh material contained at least 2 options. Option 1 maintained the existing two-way access off Schwarz Crescent and a relocated out (left turn only) access onto the Stuart Highway. Option 2 accommodated a closure of Schwarz Crescent with entry/exits (left turn only) onto the Stuart Highway.

The applicant relied upon a Traffic and Parking Report prepared by CIRQA Pty Ltd and dated August 2019 together with further traffic surveys and modelling summarised in a letter from CIRQA dated 27th November 2019. Mr Ben Wilson, representing CIRQA Pty Ltd, attended the meeting and spoke to the Report.

The Authority notes that the Report finds that additional traffic associated with the development may be in the order of 130 peak hour movements. The Report considers that these movements will be “distributed to the surrounding road network, including the intersection of Schwarz Crescent and Stuart Highway. The level of additional traffic will, however, be relatively low (less than 2% of the existing volumes experienced at the intersection).” It further concludes that the volumes will be adequately accommodated with minimal impact on existing conditions. The Report does note that “there is a short period of congestion associated with school traffic (from St Philip’s College) during the afternoon peak hour.” The Authority questioned Mr Wilson extensively about the methodology

employed in the Report and its ability to reflect local conditions including the particular prevalence of caravans and other articulated vehicles that may use the site and the sensitive nature of the road users including students and parents from St Phillip's College and the residents of the nearby Alice Springs Community Living Areas.

The Authority notes that the applicant had advised that "Council's consultant Engineers have confirmed that all traffic & parking issues have been resolved" (applicant's presentation to DCA 11th December 2019). Council's representative denied that was the case advising that Council's engineers, Greenhill Engineers, had indicated only that they were satisfied with the methodology employed in the Traffic and Parking Report but did not indicate that difficulties with Schwarz Crescent were resolved.

It became apparent from Council's written response dated 11th February 2020 and statements made by Council's representative at the various Meetings that there was fundamental confusion as to the nature of the applicant's proposed access arrangements to the site from Schwarz Crescent. Council had understood the applicant's proposal contained an immediate option to limit access onto Schwarz Crescent with access and egress off the Stuart Highway which was acceptable to Council, stating that "Council is in support of this development with heavy vehicle access and egress limited to Stuart highway but is objecting to access and egress of trucks from Schwarz Crescent". The applicant, however, intends that the existing arrangements which utilise full access to Schwarz Crescent and limited left turn only exit onto the Stuart Highway (Option 1) is the only option actually being proposed. Option 2 outlined in its revised material was a hypothetical response to matters raised by the Transport Division if Schwarz Crescent was closed at some point in the future.

Council's representative advised the meeting that Council's view and advice from its engineers is that the Schwarz Crescent intersection is already at maximum capacity. The Council, as the responsible road and traffic authority for Schwarz Crescent, indicated that it does not support the proposed service station with access to/from Schwarz Crescent, citing impacts relating to additional vehicle movement (particularly of heavy vehicles) on the capacity of adjoining road intersections.

The Authority also notes that the Central Alice Springs Area Plan (2019), under Clause 2.7 (Reference to Policy) under of the NTPS, provides strategic planning guidance for the site and identifies the site as being suitable for a potential zoning change to service commercial, in conjunction with possible intersection upgrades involving the Stuart Highway intersections with both Schwarz Crescent and Smith Street. The Authority notes the comments provided on behalf of the Department of Infrastructure, Planning and Logistics that the current investigation into the possible re-alignment of Schwarz Crescent was initiated in response to traffic safety concerns raised by the community, but that no timeframe is available for the commencement/completion of actual works.

Further, St Phillip's College which operates a nearby school, catering for students from year 7 to 12, lodged comments in relation to the Application. Those comments also express concerns in relation to traffic on Schwarz Crescent. Although the College submission was late the Authority has authority to consider such materials under Section 51(t). See *Association*

On 18th February 2020, St Phillip's College confirmed its opposition to the proposed development while access through Schwarz Crescent is utilised, stating –

St Philip's College is strongly opposed to the development proceeding if Schwarz Cr was to remain open. We believe that the additional traffic congestion and the increase in larger vehicle traffic, will pose a significantly increased risk to the safety of our students travelling via foot or by bicycle.

The Authority carefully considered the Cirqa Traffic and Parking Report, the oral materials presented by the applicant, in particular the comments of Mr Wilson, the position of Council and St Phillip's College and the materials presented by Department of Infrastructure, Planning and Logistics in relation to proposed safety improvements to Schwarz Crescent. Having weighed all those matters, the Authority could not be satisfied that *the design of the site is such that vehicular access and egress does not create a traffic hazard on adjacent roads*. For these reasons, the Authority is of the opinion that the service station as proposed, does not meet the purpose of the zone or Clause 8.1.4 (Service Station) as the resulting traffic movement would create a detrimental and unacceptable traffic hazard on the adjoining road network.

The Authority also notes that the proposed development originally failed to meet two further requirements contained in Clause 8.1.4. The requirements of subclause 2 of clause 8.1.4 are expressed in very strict terms, providing that a site may only be developed for a service station where the requirements listed (a) to (d) are met. The further non-compliances in this case relate to Sub-clause 2(a) which requires that *fuel bowzers.... associated with the service station, are located at least 20m from any residential or commercial development and visually screened from that development* and Sub-clause 2(c)ii which requires that *vehicular crossings of the footpath are not more than 9m wide*. The original application proposed a driveway width to Schwarz Crescent of 9.8 meters. However, amended drawings for the site now appear to be compliant. The applicant also amended the original proposal to address separation between fuel bowzers and the Hungry Jack's restaurant. The current proposal reduces the extent of the outdoor dining area associated with the Hungry Jacks restaurant and provides a 20m separation distance from that area to the nearest fuel bowser. However, a significant portion of the existing Hungry Jacks restaurant remains within 20m of the nearest fuel bowser. The separation distance in this case is 15 meters according to the applicant's revised drawings. The applicant advises that the relevant portion of the building will be used for amenities and 'back of house' functions and will be separated from the service station by a solid wall.

Solicitors for the applicant, Ward Keller, argued that Clause 8.1.4.2 does not apply to the development because there is no residential or commercial development on adjacent land that is within 20 metres of the bowser. They rely on the phrase "adjacent land", used in Clause 8.1.4.1 to define the purpose of the clause, to mean that it does not include "other development on Lot 6403, the subject land on which the proposed additional development would sit". While the Authority accepts the

definition of 'adjacent' as indicated by the applicant, it considers the word "land" is wide and the definition in the *Planning Act 1999* Section 3 does not limit it or confine it to being equivalent to a lot or parcel. Further, the specific provisions of sub-clause 2 use the terms "site" and "development" both of which terms are defined in the NT Planning Scheme. The Authority considers that provisions of Sub-clause 8.1.4.2 can apply to developments on the same site. When questioned, the applicant agreed that the service station and the Hungry Jack's restaurant are separate uses on the same site.

2. Clause 8.1.4 falls within the development standards set out in Parts 4 and 5 of the NTPS as required by Clause 2.5 which dictates the exercise of discretion by the Authority. Pursuant to Clause 2.5, the Authority may consent to a development that does not meet the standards set out in Part 4 and 5 of the NTPS where it is satisfied that special circumstances justify the granting of consent.

While the Authority notes that Clause 8.1.4. (Service Stations), sub-clause 2 is expressed in strict terms, requiring that a site may be developed for a service station only where the conditions set out in the sub-clause are met, it has proceeded on the basis that it has discretion to vary those requirements. In order to do so, the Authority must find special circumstances as stated in the NTCAT decision *Bradley v Development Consent Authority & Kalthmera Pty Ltd* [2017] NTCAT 922 -

In the sense in which it is used in clause 2.5(4) of NTPS, 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 Authority does not consider that the Applicant has demonstrated special circumstances to justify non-compliance with Clause 8.1.4 (Service Station). The Authority notes the examples of previous approvals provided by the applicant's solicitors but considers special circumstances, by their very nature, require a case by case assessment. In relation to the requirement of a minimum 20m separation distance between the proposed fuel bowzers and other development (the existing restaurant), the application does not demonstrate any special circumstances that warrant support of a variation. The Authority notes that the applicant conceded that compliance with the 20m separation requirement could be achieved by redesigning the layout, however considers that concerns regarding the proximity of the bowzers, vehicle movement around the bowzers, position of the designated waiting bays for the restaurant and lack of any screening or suitably defined pedestrian link from the restaurant entry to the majority of parking spaces available to it, mitigate against any finding of special circumstances.

3. Pursuant to section 51(n) of the *Planning Act 1999*, the 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 potential impact on the existing and future amenity of the area in which the land is situated has been discussed in detail above (reason 1). In summary the Authority considered that the proposed use of the site for a service station in this location with corresponding traffic impact on the adjoining road infrastructure would adversely impact on the existing amenity of the area.

4. Pursuant to section 51(t) of the *Planning Act 1999*, the consent authority must take into account other matters it thinks fit.

A late objection to the application was received from Mr Sean Loader (on behalf of St Philips College secondary school), objecting to the proposal on grounds of potential adverse impacts on the traffic and pedestrian (including cyclists) movements in the area, particularly given high traffic volumes already experienced through the Stuart Highway/Schwarz Crescent intersection during school hours.

The Authority accepted the letter of objection for information rather than as a submission under the *Planning Act 1999*, which was taken into consideration when determining the application.

At the meeting the Chair made clear to all parties that Mr Loader's letter would not be considered as a submission under section 49 of the Act. The Authority also allowed Mr Loader to present the issues raised in his letter of objection for consideration.

ACTION: DAS to prepare a Notice of Refusal

ITEM 4 **INDEPENDENT UNIT IN A DEFINED FLOOD AREA WITH FLOOR AREA EXCEEDNG 50M² AND REDUCED SIDE SETBACK (CONVERT EXISTING SHED)**
PA2020/0011 **LOT 4942 (7) MADIGAN STREET, SUBURB OF BRAITLING**
APPLICANT **AYDAN MCGUIRK**

The application was deferred on the request of the applicant.

ITEM 5 **ALTERATIONS TO CAR PARK**
PA2019/0488 **LOT 42 (43) BATH STREET, ALICE SPRINGS**
APPLICANT **YEPERENYE PTY LTD**

DAS tabled an Addendum to the Agenda Report prior to the hearing, noting that the Alice Springs Rural Area Association submission had been withdrawn and correcting a date error contained in the report.

Shanil Hameed (Hodgkison Pty Ltd) and Brett Ireland (Facilities Manager for Yeperenye Pty Ltd) attended the meeting and spoke further on the application.

Dilip Nellikat addressed the application on behalf of the Alice Springs Town Council.

RESOLVED That, the Development Consent Authority vary the requirements of sub-clause 3 of Clause 6.5.3 (Parking Layout) of the NT Planning Scheme, and
0027/20 pursuant to section 53(b) of the *Planning Act 1999*, alter the proposed

development and consent to the proposed development as altered to develop Lot 42 (43) Bath Street, Town of Alice Springs, for the purpose of alterations to an existing car park, subject to the following conditions and for the following reasons:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans in Adobe PDF format, drawn to scale with dimensions and generally consistent with the plans publicly exhibited but further modified to include:
 - a) a detailed landscape plan for the site designed to include planting along the length of both street frontages, with landscaping and planting located and selected to ensure that sight lines are not obstructed and landscaping does not:
 - (i) create concealment or entrapment opportunities; or
 - (ii) unduly limit passive surveillance opportunities; and
 - b) location/details of existing ramps (where required) between the car park and adjacent footpaths (suitability of the ramps should be verified by a registered building certifier); and
 - c) details of kerbing and/or other barriers designed to protect plants from vehicles and pedestrian traffic.

The consent authority:

- notes that the Yeperenye shopping centre development, including, but not limited to Bath Street and Hartley Street facades includes use of a range of considered building treatments and screening measures; and
- notes the opportunity for such treatments/measures to be incorporated in the required landscaping plan, supplementing planting, and assisting in enhancing the amenity of the site and locality.

Amended plans and documentation prepared in response to the conditions precedent may be submitted to the Development Consent Authority c/o Development Assessment Services, Department of Infrastructure, Planning and Logistics, c/o Alice Springs Branch via email to das.ntq@nt.gov.au.

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. Storm water is to be collected and contained within the site or discharged into the drainage network to the technical standards of the Alice Springs Town Council at no cost to the Council. This condition is to the satisfaction of the consent authority on advice from the Alice Springs Town Council.
4. The kerb crossover and driveway to the site approved by this permit is to meet the technical standards of Alice Springs Town Council, 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 technical standards of the Alice Springs Town Council, on advice from on advice from the Council.
6. Landscaping must be carried out and completed in accordance with the endorsed plans, to the satisfaction of the consent authority within 12 months of the date of this permit. If plans have not yet been endorsed within 12 months of the date of the permit, the permit will lapse unless with the further consent of the consent authority.
7. Any 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.
8. The car park must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans and to allow safe and convenient access for persons with a disability;
 - (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.
 Car spaces, access lanes and driveways must be kept available for these purposes at all times.

NOTES:

1. A Permit to Work Within a Road Reserve is required from the Alice Springs Town Council before commencement of any work within a road reserve.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentsouth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
3. You are advised to contact Dial Before You Dig prior to any excavation work.
4. Notwithstanding the approved plans, signage is subject to Alice Springs Town Council approval, at no cost to Council.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the Development Consent Authority (the consent authority) must take into consideration

the NT Planning Scheme (the Planning Scheme). The land is in Zone CB (Central Business) and is located within the Central Alice Springs Area as detailed in the Central Alice Springs Area Plan. The Area Plan and a number of performance criteria contained in Part 4 of the NT Planning Scheme are relevant to the site and development. The Alice Springs Regional Land Use Plan 2016 is a referenced policy document and also relevant to the land. The proposal has been assessed with regard to relevant provisions and objectives contained within the Planning Scheme and is considered appropriate to the site, subject to an appropriately amended and detailed landscape plan.

- a) Variations are granted to clause 6.5.3(3)(g) of the Northern Territory Planning Scheme in this instance, allowing landscaping strips narrower than 3 metres, subject to a suitably amended and detailed landscape plan as required by Conditions Precedent 1 of the determined conditions of approval, as:
 - (i) similar variations have been approved previously for the site and other properties within the central business district; and
 - (ii) suitable planting and landscaping in relatively narrow strips along the street frontages is expected to lessen the visual impact of the car parking area while ensuring that vegetation is unlikely to have adverse community safety impacts.

The development, as approved, is not expected to frustrate the purpose of clause 6.5.3(3) or relevant objectives and provisions of the Planning Scheme on account of the variations. In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the above circumstances are considered, cumulatively to constitute special circumstances that justify the granting of the variations.

2. Pursuant to section 51(e) of the *Planning Act 1999*, 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. Two public submissions were received, however, no planning issues were raised in either submission. The Alice Springs Town Council did not make a local authority submission under section 49(3) of the Act.
3. Pursuant to section 51(h) of the *Planning Act 1999*, the consent authority must take into consideration the merits of the proposal as demonstrated in the application. The application advised that:
 - a) The proposed development seeks to increase the amenity of the existing use of the carpark by providing a sealed surface and formalised line marking of car parking spaces that the current site lacks.
 - b) The proposed development will provide a greater level of functionality to the existing use and mitigate the current dust and trip hazard issues that are present on the allotment and present a risk to the public.

The application sought consent for changes to an established existing car park and the development may be expected to improve the amenity of the site, including views to the site, subject to a suitable landscape plan being endorsed by the consent authority and landscaping being effected and maintained in accordance with such a plan.

4. Pursuant to section 51(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 development is expected to improve the amenity of the locality, subject to suitable landscaping, including planting to both street frontages.
5. Pursuant to section 51(p) of the *Planning Act 1999*, the consent authority must take into consideration the public interest. The design includes 2 parking spaces for persons with a disability and an accessible path linking Gregory Terrace to an adjacent shopping centre through the site.
6. The conditions of approval are expected to assist in reasonably ensuring:
 - a) The orderly development of the site;
 - b) Due recognition of service authority interests; and
 - c) No material impact on the amenity of the streetscape, adjoining properties or the locality.

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

ITEM 6 **UPGRADE OF EXISTING FACADE AND EXTERNAL DINING AREA, INCLUDING NEW SIGNAGE**
PA2019/0505 **LOT 44 (44) HARTLEY STREET, ALICE SPRINGS**
APPLICANT **FACULTY DESIGN – CHLOE LORIMER**

Brett Ireland (Facilities Manager for Yeperenye Pty Ltd) attended the meeting and spoke further on the application.

Dilip Nellikat addressed the application on behalf of the Alice Springs Town Council.

RESOLVED That, pursuant to section 53(a) of the *Planning Act 1999*, the Development
0028/20 Consent Authority consents to the application to develop Lot 44 (44) Hartley
 Street, Town of Alice Springs, for the purpose of alterations to an existing
 restaurant/shop development, 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 included in the development application as publicly exhibited and endorsed as forming part of this permit.
2. Stormwater is to be collected discharged into the drainage network to the technical standards of the Alice Springs Town Council at no cost to the Council. This condition is to the satisfaction of the consent authority on advice from the Alice Springs Town Council.
3. Alice Springs Town Council approval must be obtained prior to construction, for any works within or affecting the adjoining road reserve.
4. Any 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.

NOTES:

1. This development permit does not grant "building approval" for the proposed structures 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. 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.
3. Notwithstanding the approved plans, signage is subject to Alice Springs Town Council approval, at no cost to Council.
4. 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.
5. You are advised to contact 'Dial Before You Dig' prior to any excavation work.
6. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of Australia, the *Public and Environmental Health Act 2011* and Regulations, the *Food Act 2004* and National Food Safety Standards.
7. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the Development Consent Authority (the consent authority) must take into consideration the NT Planning Scheme (the Planning Scheme). The land is in Zone CB (Central Business) and is located within the Central Alice Springs Area as detailed in the Central Alice Springs Area Plan. The Area Plan and a number of performance criteria contained in Part 4 of the NT Planning Scheme are relevant to the site and development. The Alice Springs Regional Land Use Plan 2016 is a referenced policy document and also relevant to the land. The proposal has been assessed with regard to relevant provisions and objectives contained within the Planning Scheme and is considered appropriate to the site.
2. Pursuant to section 51(e) of the *Planning Act 1999*, 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. No public or local authority submissions were received under section 49 of the Act.

3. Pursuant to section 51(h) of the *Planning Act 1999*, the consent authority must take into consideration the merits of the proposal as demonstrated in the application. The application anticipated that “*there will be significant value add to the facilities in terms of encouraging new patronage and general improvement of appearance. The upgrade will also improve the marketing of existing tenants and work to entice new tenants into the centre. From a patronage point of view, not only are these new facilities benefitting the locals but will be a boost for tourism.*”
4. Pursuant to section 51(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 development is expected to contribute positively to the amenity of the locality.
5. The conditions of approval are expected to assist in reasonably ensuring:
 - d) The orderly development of the site;
 - e) Due recognition of service authority interests; and
 - f) No material impact on the amenity of the streetscape, adjoining properties or the locality.

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

ITEM 7 ALTERATIONS TO EXISTING ROOF/SKYLIGHT YEPERENYE SHOPPING CENTRE
PA2019/0506 LOTS 40 (37) BATH STREET & 45 (38) HARTLEY STREET, ALICE SPRINGS
APPLICANT FACULTY DESIGN

Brett Ireland (Facilities Manager for Yeperenye Pty Ltd) attended the meeting and spoke further on the application.

Dilip Nellikat addressed the application on behalf of the Alice Springs Town Council.

RESOLVED That, pursuant to section 53(a) of the *Planning Act 1999*, the Development
0029/20 Consent Authority consents to the application to develop Lot 40 (37 Bath Street) and 45 (38 Hartley Street), Town of Alice Springs, for the purpose of alterations to an existing roof/skylight, 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 included in the development application as publicly exhibited and endorsed as forming part of this permit.
2. Stormwater is to be collected discharged into the drainage network to the technical standards of the Alice Springs Town Council at no cost to the Council. This condition is to the satisfaction of the consent authority on advice from the Alice Springs Town Council.

NOTES:

1. The land owner / applicant is advised to engage a building certifier, within the meaning of the *Building Act 1993*, as to whether the existing building/s and associated usage comply with the *Building Act 1993* and associated Regulations. This development permit does not grant building approval for the proposed change of use or any associated building works and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works or the use.
2. 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.
3. Notwithstanding the approved plans, signage is subject to Alice Springs Town Council approval, at no cost to Council.
4. 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.
5. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the Development Consent Authority (the consent authority) must take into consideration the NT Planning Scheme (the Planning Scheme). The land is in Zone CB (Central Business) and is located within the Central Alice Springs Area as detailed in the Central Alice Springs Area Plan. The Area Plan and a number of performance criteria contained in Part 4 of the NT Planning Scheme are relevant to the site and development. The Alice Springs Regional Land Use Plan 2016 is a referenced policy document and also relevant to the land. The proposal has been assessed with regard to relevant provisions and objectives contained within the Planning Scheme and is considered appropriate to the site.
2. Pursuant to section 51(e) of the *Planning Act 1999*, 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. No public or local authority submissions were received that raised any concerns with the proposed alterations.

3. Pursuant to section 51(h) of the *Planning Act 1999*, the consent authority must take into consideration the merits of the proposal as demonstrated in the application. The application anticipated that:
 - a) The Works will improve general shopping experience;
 - b) There will be no additional height added to the proposed new roof structure and there will be additional windows that will improve view lines across the area;
 - c) Recladding to the existing building will be completed in colours and materials that are sympathetic to the surrounds and will not impact view lines;
 - d) All other works are to be undertaken internally, and will not impact the planning scheme and
 - e) Internal works will utilize local suppliers, artists and products.

4. Pursuant to section 51(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 development is expected to contribute positively to the amenity of the locality.

5. The conditions of approval are expected to assist in reasonably ensuring:
 - a) The orderly development of the site;
 - b) Due recognition of service authority interests; and
 - c) No material impact on the amenity of the streetscape, adjoining properties or the locality.

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

ITEM 8 FURTHER CONSIDERATION - GROUP HOME WITHIN DEFINED FLOOD AREA
PA2019/0288 LOT 9256 (8) BALDISSERA DRIVE, SUBURB OF ROSS
APPLICANT ZONE A PTY LTD

Simon Petitt (Zone A Pty Ltd) and Sharijn King (Waltja Tjutangku Palyapayi Aboriginal Corporation) attended the meeting and spoke further on the application.

Pam Hooper and Garry Jesser spoke further to their original submissions in relation to the application.

RESOLVED That, the Development Consent Authority varies the requirements of Clause 6.14
0030/20 (Land Subject to Flooding and Storm Surge) and Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 9256 (8) Baldissera Drive, Suburb of Ross, Town of Alice Springs, for the purpose of a group home and independent unit within a defined flood area, subject to the following conditions and for the following reasons:

CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

2. A landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the site plan but focussed on that area between the 'main house' and the 'accommodation pavilion' with the objective of

strengthening the visual link between the two structures (making up the core element of the group home) and must include a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. All species selected must be to the satisfaction of the consent authority.

3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply and electricity facilities to the group home and independent unit as shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.

NOTES:

1. The land owner is advised to engage a building certifier, within the meaning of the *Building Act 1993*, as to whether the building/s comply with the *Building Act 1993* and associated Regulations.
2. 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.
3. The land use approved by this permit and development of the site (as shown on the endorsed plans) must not be altered unless it can be demonstrated that it complies with the relevant Planning Scheme in force at the time or further consent of the consent authority has been obtained.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application the Development Consent Authority must take into account the planning scheme that applies to the land to which the application relates. The proposed development for a "group home" and "independent unit" is consistent with the purpose for Zone RL (Rural Living and does not raised any inconsistencies with the strategic planning objectives for the area under Clause 2.7 Reference to Policy (Alice Springs Regional Land Use Plan 2016) or Clause or Clause 4.3 (Alice Springs Planning Principles).

The authority considered the nature of the development to be consistent with the definition of "group home" under clause 3.0, noting Building Certification advice that the 'main dwelling' and 'accommodation pavilion' may satisfy the requirements for a 'Class 1' building under the National Construction Code (NCC), which typically allows for a standalone single dwelling of a domestic or residential nature.

The authority is satisfied that the use as proposed, is consistent with the purpose and development provisions of Clause 7.10.5 (Group Homes).

2. Variations are granted for the following:
 - a) Clause 6.14 (Land Subject to Flooding and Storm Surge) of the Northern Territory Planning Scheme for an independent unit with a floor level less than the required 300mm above the 1% AEP flood level as:

- The floor level is consistent with other approved Class 1a structures on site, which were constructed prior to 2015, and which are in accordance with earlier flood/floor level requirements;
 - Noting that the finished floor level is only 0.034m (34mm) less than the estimated flood level in the 2015 mapping and the flood levels have been interpolated between the flood contours and are therefore approximate; and
 - The existing foundations comprise a concrete 'slab' on ground and there would be considerable expense in attempting to elevate the structure by an extra 200-300mm;
 - Caution Notices are already registered on the Land Title of Lot 9256 identifying the flood liability (riverine flooding and sheet water flow) of the property; and
- b) Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme for two carports within 3.7m and 9.0m of a side (southern) boundary as:
- The carports are setback approximately 75m and 115m from the street frontage and are not visible to the public;
 - Each structure is small in scale and size with shade cloth covering which minimises any massing effect;
 - Both structures are effectively screened from Lot 8524 by a 2.2m high Colorbond® boundary/perimeter privacy fence and existing vegetation (trees and shrubs); and
 - No objections to the structures were raised during the public consultation period for the application.

In accordance with Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the aforementioned design features and site conditions are considered to be sufficient special circumstances and justify the granting of a variation to Clause 7.10.4 of the Scheme.

3. Pursuant to section 51(e) of the *Planning Act 1999*, in considering a development application the consent authority is required to take into account any submissions made under section 49 of the Act and any evidence or information received under section 50 of the Act. A number of public submissions were received raising concerns in relation to the use of the site, as a group home but more particularly for large group activities which may adversely impact on the rural amenity of the area.

Two submitters attended the meeting and spoke further to their submissions. The Authority noted those comments, particularly in relation to the maximum number of people that could be resident on the premises. Under Clause 7.10.5 (Group Homes) of the NT Planning Scheme a group home is limited to 12 residents. At the meeting on 11 March 2020, the Chair made it clear to all parties that should this number be exceeded or that activities on the site cause a detriment to the residential amenity of the locality, then normal complaint procedures should be followed, with the issue/s being brought to the attention of the relevant agency (including NT Police, NT Environmental Protection Authority or the Department of Infrastructure, Planning and Logistics).

4. Pursuant to section 51(h) of the *Planning Act 1999*, the Development Consent Authority must, in considering a development application, take into account the merits of the proposal. The development as proposed, will allow the premises to be used as a group home in a rural living environment. The site is considered capable of accommodating the use noting that extensive landscaping using native, arid zone vegetation has been undertaken by the land owners.

5. Pursuant to section 51(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.
 - a) The Alice Springs Town Council (ASTC) advised there are no conditions required; and
 - b) The Power and Water Corporation (PAWC) advised that it has no objections, noting a requirements for a backflow prevention device to be installed and subject to standard PAWC conditions being included on the permit.

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

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

SUZANNE PHILIP
Chair
20 March 2020