



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 417-FRIDAY 22 MARCH 2024

**AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH**

MEMBERS PRESENT: Suzanne Philip (Chair), Mark Blackburn, Monica Baumgartner, Mick Palmer and Peter Pangquee (not present for item 3)

APOLOGIES: Marion Guppy

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Sally Graetz, David Burrow, Sam Pallet and Lingyi Kong (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.15 am and closed at 12 noon

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

The Chair, Development Consent Authority, under section 93(1) of the *Planning Act 1999*, appointed Monica Baumgartner who is a member in relation to the Batchelor Division, to act as a member for Marion Guppy in relation to the Darwin Division from 12 March 2024 to 3 April 2024 as Marion Guppy is prevented from performing her duties of office because of absence.

ITEM 1 **RECONSIDERATION - SUBDIVISION TO CREATE 36 LOTS AND A BUILDING**
PA2023/0246 **SETBACK PLAN (NORTHCREST STAGE 4B)**
SECTION 7349 MAKAGON ROAD, BERRIMAH, HUNDRED OF BAGOT
APPLICANT Cunnington Rosse Town Planning and Consulting

DAS tabled an addendum, comments from Transport and Civil Services DIPL.

Applicant: Gerard Rosse (Cunnington Rosse Town Planning and Consulting) attended.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 6.2.1
19/24 (Lot Size and Configurations in Zone LR, LMR, MR and HR) and Clause 6.2.4
 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR
 and HR) of the Northern Territory Planning Scheme 2020, and pursuant to
 section 53(a) of the *Planning Act 1999*, consent to the application to develop
 Section 7349 Makagon Road, Berrimah, Hundred of Bagot, subject to the
 following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans, a revised Subdivision Masterplan is to be prepared and submitted to and approved by Land Development Unit of the Department of Infrastructure, Planning, and Logistics, to the satisfaction of the consent authority. The Masterplan is to include:
 - a. A Traffic Impact Assessment; and
 - b. A Stormwater Management Plan.
2. Prior to the endorsement of plans, written confirmation is required from the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics that the required Traffic Impact Assessment (TIA), in accordance with the Austroads Guide to Traffic Management Part 12: Integrated Transport Assessment for Developments, has been submitted and accepted. The TIA must include Northcrest Development's traffic generation, trip distribution, traffic operation impact to the NTG controlled road network including entry/exit intersections with the Stuart Highway and Berrimah Road.
3. Prior to the commencement of works, a Dilapidation Report must be completed on existing Public infrastructure that may be affected by the development works and must be submitted to and approved by Land

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Development Unit of the Department of Infrastructure, Planning, and Logistics, to the satisfaction of the consent authority.

4. Prior to the commencement of works, a Construction Traffic Management Plan must be submitted to and approved by Land Development Unit of the Department of Infrastructure, Planning, and Logistics, to the satisfaction of the consent authority.
5. Prior to the commencement of works (any earth disturbing activities, including clearing and early works), an Erosion and Sediment Control Plan (ESCP) must be developed and submitted for acceptance to Development Assessment Services via email: das.ntg@nt.gov.au. The ESCP must be certified by a Certified Professional in Erosion and Sediment Control (CPESC).

GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
7. All proposed and affected roads, streetlights, stormwater drainage, pedestrian corridors, access crossover/driveways and streetscaping must be designed and constructed in accordance with the Berrimah Farm Subdivision Guidelines to the technical requirements of the Land Development Unit of the Department of Infrastructure, Planning, and Logistics and to the satisfaction of the consent authority. All approved works constructed are at the developer's expense.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 1, 2 and 3 for further information.
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 existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.
11. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
12. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Land Development Unit of the

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Department of Infrastructure, Planning, and Logistics, to the satisfaction of the consent authority.

13. Prior to the issue of Part 5 clearance, the developer is to provide written confirmation to Land Development Unit of the Department of Infrastructure, Planning, and Logistics (in the form of plans or drawings) demonstrating that all lots less than 600m² for single dwellings allow for future vehicle access via a single driveway unrestricted by street infrastructure (including all power, water, sewer or stormwater infrastructure), which demonstrates a 3.5 metre driveway can be located on each lot in accordance with Planning Scheme 5.2.4.5.
14. Prior to the issue of Part 5 clearance, a Stage 3 and 4 Road Safety Audit is to be prepared by a suitably qualified traffic engineer in accordance with the Austroads Document Guide to Traffic Management Part 12: Traffic Impacts of Developments shall be submitted to and approved by the Land Development Unit of the Department of Infrastructure, Planning, and Logistics, to the satisfaction of the consent authority.
15. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
3. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/buildersdesigners.html>

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4. 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.
5. All new roads, including alterations and extensions to existing roads, are required to be named under the *Place Names Act 1967*. You should immediately make application to the Place Names Committee to commence the road naming process. Contact the Place Names Unit on 8995 5333 or place.names@nt.gov.au. Further information can be found at www.placenames.nt.gov.au
6. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 8995 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
7. In order to process the building setback plan submitted as part of this application, the applicant is required to make a separate application for a planning scheme amendment to include the building setback plan in Schedule 9 of the Northern Territory Planning Scheme 2020. Please contact Lands Planning on 8999 8963.
8. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>
9. Any disturbance to existing Public Infrastructure is to be rehabilitated to the technical requirements of the Land Development Unit of the Department of Infrastructure, Planning, and Logistics.
10. Information resources to assist with preparing an Erosion and Sediment Control Plan (ESCP) are available on the International Erosion Control Association website www.austieca.com.au and on the Northern Territory Government website <https://nt.gov.au/environment/soil-land-vegetation>.
11. 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

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by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.

12. A “Permit to Work Within a Road Reserve” may be required from the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and subdivision requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(c)(ii), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and Berrimah Farm Area Plan and Planning Principles), overlays (Part 3) clauses 3.2 (Clearing of Native Vegetation) and 3.5 (Land in Proximity to Airports), zone purpose and outcomes (Part 4) of clauses 4.3 (Zone LMR – Low-Medium Density Residential), 4.11 (Zone C – Commercial), 4.27 (Zone FD – Future Development), and subdivision and consolidation requirements (Part 6) clauses 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR), 6.2.2 (Lots Less Than 600m² for Dwellings-Single), 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR), and 6.5.1 (Subdivision in Zone FD), need to be considered.

These clauses have been considered and the proposal complies with the relevant requirements of the Planning Scheme except for clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) and Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zone LR, LMR, MR and HR), because the proposal will result in lot configurations that will not accord with the minimum building envelope dimensions and the proposal does not provide public open space within this stage.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

Under Clause 1.10(4) (Exercise of Discretion by the Consent Authority), “In considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:

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- (a) any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;
- (b) any Overlays and associated requirements in Part 3 that apply to the land;
- (c) the guidance provided by the relevant zone purpose and outcomes in Part 4, or Schedule 4.1 Specific Use Zones; and
- (d) any component of the Strategic Framework relevant to the land as set out in Part 2.

The consent authority noted that the proposal is generally in keeping with the vision expressed within the relevant strategic framework, including both the Darwin Regional Land Use Plan 2015 (DRLUP) and Berrimah Farm Planning Principles and Area Plan (BFAP).

The application is for Stage 4B of the Berrimah Farm 'Northcrest' residential development and has been developed in accordance with the Berrimah Farm Planning Principles and Area Plan.

The BFAP shows the land is to be developed for residential purposes at a density of 25-60 dwellings per hectare which is intended to be met across the whole of the area shown with the same density band. Dwelling types for this density band are described as dwelling-single (Detached/terrace/villas), and dwellings-multiple to a maximum height of 3 storeys.

The area of the subdivision is 1241500m² and includes one commercial lot and 35 residential lots allowing for a potential for 54 dwelling-single or dwelling-multiple. The density achieved in the proposed subdivision is assessed as 15.4 dwellings/ha (25-60 dwellings per hectare required in the Area Plan). In support of the proposal, the applicant demonstrated a density assumption over all stages within the density band, resulting in 28.8 dwellings/ha. The density assumption demonstrates that the required dwelling density will be achieved upon completion, and the proposed rezoning and subdivision will not impact the overall dwelling density identified under the BFAP.

While the land is currently within Zone FD (Future Development), it is identified for future low to medium density residential and commercial uses. The subdivision will create lots of a size and configuration generally anticipated for the intended zones and uses.

The subdivision complies with Clauses 6.2.2 (Lots Less Than 600m² for Dwellings-Single), 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), and 6.5.1 (Subdivision in Zone FD). A non-compliance has been identified against Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) and 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR).

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Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR)

The purpose of this clause is to ensure that subdivision of land for urban residential purposes creates lots of a size, configuration and orientation suitable for residential development at a density envisaged by the zone.

Subclause 6 requires a building envelope to ensure the lots have sufficient area for future residential development. The minimum building envelopes are: 7m x 15m for lots 300m² to 450², 8m x 15m for lots 450m² to 600m², and 17m x 17m for lots greater than 600m².

The consent authority noted the assessed non-compliance with the building envelope requirements for lots 322 to 328 and 330 to 332.

Administratively, the consent authority may consent to a subdivision that is not in accordance with this requirement where satisfied the subdivision is consistent with the purpose of this clause and the zone purpose and outcomes.

The lots that are non-compliant are lots that are slightly greater than 600m² in area. Minimum building envelope width requirements increase significantly from 8m for lots up to 599m² to 17m for lots greater than 600m². Achievement of compliance is further hampered due to a number of circumstances of these lots occurring on corners, and therefore requiring truncated boundaries.

Despite the identified lots not meeting the minimum building envelope dimensions, the lots are sufficient to accommodate the proposed density of development, future residential buildings, vehicle access, parking and ancillary buildings. The proposed building envelope demonstrates that it can accommodate a compliant dwelling-single, dwelling-group or dwelling-multiple that has regard for vehicle access, on-site parking, private open space and street infrastructure.

The building envelope size is consistent with the zone purpose providing lots of a suitable size, configuration and orientation which is envisaged within zone LMR. Furthermore, the proposed lot sizes, configuration and orientation are consistent with other approved stages in the Northcrest subdivision.

6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR)

The proposal is consistent with the purpose of Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) in that the proposal relies upon integration with the existing, and proposed, provision of public open space as provided, or identified, within other stages of the Northcrest Development and guided by the Berrimah Farm Planning Principles and Area Plan area.

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Administratively, the consent authority may consent to a subdivision that is not in accordance with sub-clauses 2-7 of Clause 6.2.4, only if it is satisfied the subdivision is consistent with the purpose of this clause.

While this subdivision (being for Stage 4B of the Northcrest Development) does not include dedicated public open space, it has access to other existing public open space already provided as part of the larger development and it is expected, consistent with other similar developments, and based on the information provided with the development application, that the dedicated public space requirement will be met for the Northcrest Development prior to its ultimate completion.

The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) and Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) as identified above.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

No land capability concerns were identified under assessment with the land therefore considered capable of support development as proposed. The land is not identified as being affected by drainage, slope, seasonal inundation, land units, soil characteristics, heritage constraints and easements.

The ANEF mapping to the year 2042 shows that only a narrow strip of the Berrimah Farm Area, adjoining Stuart Highway, will be in ANEF-20 in that year with the area of the proposed subdivision is outside the ANEF-20 contour.

No concerns with the provision of public utilities or infrastructure have been identified for the proposed subdivision, and all requests by service authorities have been appropriately addressed through recommended conditions and notes to be included on any permit issued.

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

The site is identified within the Berrimah Farm Principles and Area Plan for accommodating future development of between 16 and 60 dwellings per hectare, including in a single dwelling (detached) manner. The subdivision as proposed, including a commercial allotment to support this residential development, is consistent with development reasonably anticipated in the

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area given the density projections and land uses presented in the area plan. As a result, unreasonable impacts on amenity are considered unlikely.

In terms of more general amenity impacts, the consent authority noted the additional information presented at the meeting by the applicant, and in particular regarding the projected completion of Panquee Boulevard and its connection to the Stuart Highway intersection sometime in 2024. Delivery of this road connection will likely have positive amenity impacts on residents and land users in the area as the area continues to develop.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2023/0402

**SUBDIVISION TO CREATE 24 LOTS AND BUILDING SETBACK PLAN
(NORTHCREST STAGE 5D PART 1)
SECTION 7349 MAKAGON ROAD, BERRIMAH, HUNDRED OF BAGOT**
Cunnington Rosse Town Planning and Consulting

APPLICANT

Applicant: Gerard Rosse (Cunnington Rosse Town Planning and Consulting) attended.

Submitter: Shan Summers attended via Teams videolink

RESOLVED
20/24

That, the Development Consent Authority vary the requirements of Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Sections 7348 and 7349 Makagon Road, Hundred of Bagot, for the purpose of subdivision to create 24 lots, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the local stormwater drainage system shall be submitted to and approved by the Land Development Unit of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
2. Prior to the commencement of works, a Dilapidation Report must be completed on existing Public Infrastructure that may be affected by the Development Works in accordance with the NT Subdivision Development Guidelines, and must be submitted to and approved by the Land Development Unit of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority
3. Prior to the commencement of works, a Traffic Management Plan in accordance with the Berrimah Farm Subdivision Guidelines, and must be submitted to and approved by the Land Development Unit of the

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Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.

4. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the Land Development Unit, Department of Infrastructure, Planning and Logistics. The SCMP should address the impact to public spaces and include a waste management plan for disposal of waste, traffic control for affected roads, haulage routes, storm water drainage & sediment control, use of land within the Berrimah Farm Planning Principles and Area Plan area, and how this land will be managed during the construction phase.

GENERAL CONDITIONS

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
7. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 1 for further information.
9. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
10. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au)

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and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. The 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.
3. All new roads, including alterations and extensions to existing roads, are required to be named under the *Place Names Act 1967*. You should immediately make application to the Place Names Committee to commence the road naming process. Contact the Place Names Unit on 8995 5333 or place.names@nt.gov.au. Further information can be found at www.placenames.nt.gov.au
4. In order to process the building setback plan submitted as part of this application, the applicant is required to make a separate application for a planning scheme amendment to include the building setback plan in Schedule 9 of the Northern Territory Planning Scheme 2020. Please contact Lands Planning on 8999 8963.
5. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>
6. For the purposes of best practice land management and environmental protection it is recommended that an Erosion and Sediment Control Plan (ESCP) be developed. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. Resources to assist with the preparation of an ESCP are available on the IECA website www.austieca.com.au and Land Management Factsheets at <https://nt.gov.au/environment/soil-landvegetation>. For further advice, contact the Development Coordination Branch: (08) 8999 4446.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and subdivision of land requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(ii), and therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and Berrimah Farm Planning Principles and Area Plan which are relevant to this application), zone purpose and outcomes of Clause 4.27 – Zone FD (Future Development), and Clause 6.5.1 (Subdivision in Zone FD), need to be considered. These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR)

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(4).

The proposal has been found in accordance with Clause 6.5.1 (Subdivision in Zone FD), as the subdivision will result in 24 lots identified as intended for Zone LMR (low-medium residential) and compliant with all relevant subdivision requirements except Clauses 6.2.4, because the proposal will not provide any public open space.

Land in Proximity to Airports (LPA) Overlay applies to part of the site, however, it is not relevant to the assessment of this proposal as the subdivision area is outside the area impacted by this overlay (outside ANEF-20 contour line).

This application has been considered against the Berrimah Farm Planning Principles and Area Plan (BFAP). The proposed subdivision is identified across two areas anticipating either 25-60 dwellings per hectare, or 16-40 dwellings per hectare. The proposal can provide 16-40 dwellings per hectare. However, it would fail to achieve a density of 25-60 dwellings per hectare. In this instance, a lower density is acceptable, as the subject land is not proximate to commerce or publically accessible open space, relative to other stages, noting that the dwelling density requirement has not been achieved here.

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The consent authority considered the application and noted that no additional public open space was provided as part of the application, and that public transport continued to be external to the BFAP area despite substantial development having occurred within the site. The consent authority noted that prioritising the connection of Panquee Boulevard to the Stuart Highway was preferred, also noting that the proposed subdivision around this section (Stage 4B of Northcrest) was considered at the same meeting. At the meeting, the applicant indicated that Stage 4B of Northcrest, and the connection of Panquee Boulevard, was intended to commence before any further expansion of the road network within the BFAP area, and that a more coordinated approach to the Northcrest Development would be forthcoming. The consent authority noted the applicant's response, but also noted that such things could not be conditioned or enforced through the consent authority.

The consent authority noted the response from the Land Development Unit, as local authority, did not include any Condition Precedent requiring a Site Construction Management Plan (SCMP), and requested that a condition precedent to that affect be placed on any Development Permit.

6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR)

The proposal is consistent with the purpose of Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) in that the proposal relies upon integration with the existing, and proposed, provision of public open space as provided, or identified, within other stages of the Northcrest Development and guided by the Berrimah Farm Planning Principles and Area Plan area.

Administratively, the consent authority may consent to a subdivision that is not in accordance with sub-clauses 2-7 of Clause 6.2.4, only if it is satisfied the subdivision is consistent with the purpose of this clause.

While this subdivision (being for Stage 4B of the Northcrest Development) does not include dedicated public open space, it has access to other existing public open space already provided as part of the larger development and it is expected, consistent with other similar developments, and based on the information provided with the development application, that the dedicated public space requirement will be met for the Northcrest Development prior to its ultimate completion.

The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) and Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) as identified above.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the

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proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

No land capability concerns were identified under assessment.

The site is identified within the Berrimah Farm Principles and Area Plan as being for the purpose of accommodating between 16 and 60 dwellings per hectare, including in a single dwelling (detached) manner. Subsequently, the subdivision of land into 24 lots each capable of accommodating a single dwelling (detached) is considered an appropriate form of development for the site.

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

The site is identified within the Berrimah Farm Principles and Area Plan as being for the purpose of accommodating between 16 and 60 dwellings per hectare, including in a single dwelling (detached) manner. The subdivision will facilitate this style of development. Noting this, the eventual form of development is considered to be reasonably anticipated and unlikely to result in adverse amenity impacts.

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

One public submission was received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal. Concerns included the use of residential streets for heavy vehicle access instead of the unfinished Panquee Boulevard.

As noted above, the matter of the status of Panquee Boulevard is anticipated to be resolved once Northcrest Stage 4B has been completed. At the meeting, the consent authority sought clarification of the expected timeframes for this to occur, with the applicant indicating that this section of Panquee Boulevard is expected to be delivered in 2024.

The consent authority noted the additional matters raised by Mr Summers at the meeting regarding signage around the public open space, and specifically, driver/pedestrian advisory signage near the playground alerting drivers in particular of the presence of pedestrians/children. While such signage does not form part of the application, nor requirements under the NT Planning Scheme, the consent authority noted the undertaking provided by the applicant to pass this information on to their client so that an assessment of whether additional signage is required can be considered.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2024/0010
OUTBUILDING (VERANDAH / CARPORT EXTENSION TO EXISTING SHED)
ADDITIONS TO AN EXISTING DWELLING-SINGLE WITH A REDUCED
BUILDING SETBACK TO THE SIDE BOUNDARY
LOT 447 (23) PHOENIX STREET, NIGHTCLIFF, TOWN OF NIGHTCLIFF
APPLICANT
Robert Creek

Pursuant to section 97 of the *Planning Act 1999*, Peter Pangquee, community member of the Darwin Division of the Development Consent Authority disclosed an interest and was not present during, contributed to or took part in the deliberation or decision of the Division in relation to Item 3.

Applicant: Robert Creek attended via Teams videolink.

RESOLVED
21/24
That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the NTPS 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 447 (23) Phoenix Street, Nightcliff, Town of Nightcliff for the purpose of an outbuilding (verandah/carport extension to existing shed) addition to an existing dwelling-single with a reduced building setback to the side lot boundary, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
2. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the local stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of surface flow direction, downpipe direction and any connection to Council connection points.
3. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.
4. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report.
7. 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.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.

NOTES:

1. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
2. 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.
 - (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 FOR THE DECISION

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

The NTPS 2020 applies to the land and an outbuilding (verandah/carport extension to an existing shed) addition to an existing dwelling-single with a reduced building setback to the side lot boundary requires consent under Clause 1.8 (When development consent is required). It is identified as having become *Merit Assessable* under Clause 1.8(1)(b)(ii)(2); therefore, Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), need to be considered.

This clause has been considered and it is found the application meets the requirements of the Planning Scheme 2020 except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

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2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), sub-clause 5, of the Northern Territory Planning Scheme 2020, the consent authority may consent to a proposed development, which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found not to be in accordance with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), because the proposal will result in:

- A 1m side setback from the proposed verandah / carport to the lot boundary, where the NTPS 2020 requires a 1.5m setback.

Administratively, *“The consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property”*.

The purpose of Clause 5.4.3 is to:

Ensure that residential buildings and ancillary structures are located in a manner that:

- (a) is compatible with the streetscape and surrounding development including residential buildings on the same site;*
- (b) minimises adverse effects of building massing when viewed from adjoining land and the street;*
- (c) avoids undue overlooking of adjoining properties; and*
- (d) facilitates breeze penetration through and between buildings.*

The applicant has proposed a verandah / carport with a variation of 0.5m for ancillary structures without external walls to the side lot boundary, resulting in a building setback of 1m. It is considered that a variation to this clause is appropriate in this instance because:

- The proposed verandah/carport is open sided except for the western elevation (that adjoins the existing shed), which will reduce the visual impact on the neighbour and enable breeze penetration.
- The sloping roof of the proposed verandah/ carport reduces the visual impact from the primary street frontage.
- The proposed verandah / carport has a combined area of 34.8m² (6x5.8m) and covers a smaller area than the existing shed (54m²).
- The application was placed on limited notice exhibition and one submission was received from a neighbour (Lot 448), which raised concerns regarding the proposed side setback of 1m.

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- The submission stated if the verandah / carport remained open with a roof, this would alleviate their main concern regarding blocked breezes and reduced garden amenity.
3. Pursuant to section 51(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

One public submission was received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal. The submission raised concerns that if the sides of the proposed verandah / carport are closed and there is reduced side setback of 1m to the lot boundary, that this will block breezes and reduce garden amenity. However, the submission also stated that if the sides of the proposed verandah / carport are open, then their primary concern over the proposed reduced side setback would be alleviated.

4. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The land is capable of supporting the proposed development. No constraints have been identified that would prevent this development, and no adverse service authority comments were received.

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

There is unlikely to be any adverse impact on the existing and future amenity of the area as a result of the proposed development. The proposed verandah / carport is open sided, which reduces the visual impact for the neighbour and enables breeze penetration. The slopping roof reduces the visual impact of the proposed verandah / carport from the primary street frontage.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 4
PA2023/0420

DWELLING-SINGLE WITH A REDUCED AREA OF PRIVATE OPEN SPACE

LOT 12787 (37) CYCAD CIRCUIT, LEE POINT, TOWN OF NIGHTCLIFF

APPLICANT

Goldbox

Applicant: Maria Pajarillo (Goldbox) and Peter Hourdas (Prestige Homes NT - builder) attended.

**RESOLVED
22/24**

That, the Development Consent Authority vary the requirements of Clause 5.4.6.1 (Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group) of the Northern Territory Planning Scheme 2020, and, pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 12787 (37) Cycad Circuit, Lee Point, Town of Nightcliff for the purpose of dwelling-single with a reduced dimension of private open space, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works, amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - Extension of the Area B private open space area, including the paved area within it, such that the area complies with the applicable minimum area requirements under clause 5.4.6.1 of the NT Planning Scheme and ensures the space is adequately useable, while confirming that Area A remains compliant with that clause.

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, drainage, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
Please refer to notations 1, 2, 3 and 4 for further information.
4. The development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
5. 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.
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.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section

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(powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (Eoi) form via email to remotedevelopment@powerwater.com.au
3. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
4. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
5. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.

REASONS FOR THE DECISION

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

The Northern Territory Planning Scheme 2020 applies to the land and dwelling-single with a reduced dimension of private open space requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(ii)(2); therefore, Part 2 (Strategic Framework), zone purpose and outcomes of Clause 4.3 (Zone LMR – Low-Medium Density Residential), and applicable clauses under Part 5 (Development Requirements), including Clause 5.2.1 (General Height Control), Clause 5.2.4 (Car Parking), Clause 5.2.6.1 (Landscaping in Zones other than Zone CB), Clause 5.4.1 (Residential Density), Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), and

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Clause 5.4.6.1 (Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group), need to be considered.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), sub-clause 5, of the Northern Territory Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found not to be in accordance with Clause 5.4.6.1 (Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group) because the proposal will result in a 4.7m minimum dimension for the Part B component of the private open space, where the NTPS 2020 requires the minimum dimension of 6m.

Administratively, the consent authority may consent to private open space that is not in accordance with sub-clauses 2 and 3 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.

The purpose of Clause 5.4.6.1 is to:

‘Extend the function of a dwelling and enhance the residential environment by ensuring that each dwelling has private open space that is:

- a. of an adequate size to provide for domestic purposes;
- b. appropriately sited to provide outlook for the dwelling;
- c. open to the sky and sufficiently permeable to allow stormwater infiltration and lessen runoff from the site; and
- d. inclusive of areas for landscaping and tree planting.’

Once suitably amended, the proposed private open space will meet the purpose of the clause because:

- Proposed Area B extends the function of the dwelling by providing outdoor space for domestic activity located directly off the living areas of the dwelling in a design offering shading for weather protection
- The proposed verandah area will provide a functional area to enhance visual connection between the indoor and outdoor spaces
- While non-compliant with minimum dimensional requirements, the design and placement of the private open space is considered sufficient to allow the space to be reasonably useable and function as expected
- The 65.5m² Area A is open to the sky, usable, in excess of the minimum areas required, and is permeable to allow stormwater infiltration. Area B (which includes paved areas) has a 1.6m setback to the side boundary to reduce stormwater runoff from the site and allow stormwater infiltration to occur on the property
- Landscaping is proposed on all sides of the property to enhance visual amenity of the area when viewed from the public and adjacent

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properties. The plan includes grass and various types of shrubs and trees to provide screening and privacy.

The consent authority also noted that if the lot area were 1m² less, the private open space requirements under the NT Planning Scheme would be significantly less and would result in this proposal achieving full compliance. The consent authority acknowledged that the developer had utilised the same dwelling design on other smaller allotments in the same and other residential estates, all of which were able to meet the minimum requirements as a result of their smaller land areas. On this basis, and for the reasons acknowledged above, the consent authority considered that a variation was acceptable in this situation.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The land is capable of supporting the proposed development. The impact of the development is not beyond what would be normally expected of this type of development. The lot will be serviced by reticulated power, water, sewer and communication utilities and have access to sealed roads and stormwater infrastructure. Accordingly the land is considered capable of supporting the proposed single-storey dwelling within Zone LMR.

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

The proposed single-storey dwelling-single fits within the surrounding residential developments in Zone LMR. The variation is for reduced private open space and does not impact on public area or infrastructure. No adverse impacts on the existing and future amenity of the area are foreseen as a result of the proposed development.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

05 April 2023

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