



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING NO. 283 – WEDNESDAY 7 FEBRUARY 2024

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

MEMBERS PRESENT: Suzanne Philip (Chair), Deepika Mathur, Chris Neck, Allison Bitar and Matt Paterson (Not present for Item 2)

APOLOGIES: None
LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Chay Garde, Ben Taylor and James Calder

COUNCIL REPRESENTATIVE: Matt Raymond

Meeting opened at 10.45am and closed at 12:05pm

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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.

ITEM 1 **MEDICAL CLINIC (AMBULATORY CARE FACILITY – RENAL HEALTH) IN A TWO**
PA2023/0065 **STOREY BUILDING**
 LOT 8168 (2) TRAEGER AVENUE, THE GAP, TOWN OF ALICE SPRINGS
APPLICANT MasterPlan NT

Attendance via video link: Applicant Peter Stanley (Queensland State Manager - MasterPlan), Mark Ty (Director Infrastructure, Contracts & Facilities NT Health - Central Australia and Barkly Region), Steve Gunner (Project Manager, Department of Health), Lina Restrepo (Traffic Engineer - Stantec) and Andreas Wang (Principal Transport - Stantec).

Attendance in Person: Shanil Hameed (Principal Architect & Regional Manager NT - Hodgkison Pty Ltd)

RESOLVED
03/24

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 8168, (2) Traeger Avenue, The Gap, Town of Alice Springs for the purpose of a medical clinic (ambulatory care facility - renal health) in a 2 storey building to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

1. Submission of an updated Traffic Impact Assessment of the proposed development works and operation of use based on a updated (2024) traffic survey that further addresses:
 - i) Current (2024) and modelled traffic data (cars, public transport, delivery vehicles, ambulances, public and school bus services, bicycle and pedestrian movements).
 - ii) Peak traffic times of the Alice Springs Hospital campus and OLSH school (e.g. 07:00 to 09:30 and 14:30 to 17:30) taken on a minimum of two days.
 - iii) Current and proposed infrastructure
 - iv) Upgrades required to road reserves (kerb crossovers and driveways, pedestrian and bicycle access, sightlines, works within verges and carriageways)
2. the applicant obtaining written “in principle” support from the:
 - i) Alice Springs Town Council; and
 - ii) Transport Safety and Services division of the Department of Infrastructure, Planning and Logisticsto the recommendations contained in the (updated) Traffic Impact Assessment.

RESOLVED
04/24

That, pursuant to section 86(1) of the *Planning Act 1999*, the Development Consent Authority delegate to the Chair or in the Chair’s absence or inability to act any one of the members of the Division, the power under section 53 of the *Planning Act 1999*, to determine the application to develop Lot 8168, (2) Traeger Avenue, The Gap, Town of Alice Springs for the purpose of a medical clinic (ambulatory care facility - renal health) in a 2 storey building subject to:

1. Resolution 03/24 requirements being met; and
2. Standard conditions being included on the Development Permit.

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REASONS

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

The NT Planning Scheme 2020 (NTPS2020) applies to the land which is zoned CP (Community Purpose) and also subject to the Overlay listed in Clause 3.6 (LSF – Land Subject to Flooding).

The NTPS2020 definition (Schedule 2) of “site” means - *an area of land, whether consisting of one lot or more, which is the subject of an application to the consent authority.*

The development application proposes to demolish an existing “car parking area” on Lot 8168, that is used as part of the Alice Springs Hospital campus and construct a “medical clinic”. Lot 8168 contains a “access” to an existing staff car park for the hospital (on Lot 8167) and car parking areas located adjacent (west and south) to the main ward block of the hospital on Lot 4579. The proposed medical clinic on Lot 8168:

- will utilise the laundry and catering/kitchen facilities located on Lot 4579;
- will have strong pedestrian and vehicle linkages to Lot 4579 and Lot 8167
- is located on the Alice Springs Hospital campus to utilise services available (medical professionals, patient travel, social workers etc).

The Development Consent Authority considers the “site” subject to the application to encompass the Alice Springs Hospital campus which spans Lot 4579, part of 8167 (car park), Lot 8168 and part of Lot 1018 (car park).

An application is required for *Planning Act 1999* (section 44) consent as:

- it is proposed to construct a new building/development on land affected by the Land Subject to Flooding Overlay (sub-clause 1 of Clause 3.6 of the NTPS2020 triggers the need for consent).
- the land is within Zone CP of the NTPS2020, where “medical clinic” (as a “primary use” is listed as “permitted” in the zone).
- however, as the:
 - i. “medical clinic” is considered to be an ancillary component of the Alice Springs Hospital campus that spans Lot 4579 and the existing “car parking area” on Lot 8168 and “car park” on Lot 8167; and
 - ii. ancillary “excavation and fill” works (4516 cubic metres of fill) are required

this is considered to make the development/use *Impact Assessable* as outlined in sub-clause 4 of Clause 3.1 (Overlays) and Clause 1.9 of the NTPS2020.

Therefore, pursuant to sub-clause 4 of Clause 1.10 of the NTPS2020, the Development Consent Authority, in considering the development application, must take into account all of the following:

- (a) any relevant requirements, including the purpose of the requirements, as set out in Part 5
- (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

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The zone purpose and outcomes of Clause 4.22 (Zone CP – Community Purpose) of the NTPS2020, and requirements listed in:

- Clause 2.2.3(a) – Alice Springs Regional Land Use Plan 2016
- Clause 2.2.3(c) – Central Alice Springs Area Plan
- Clause 3.6 (LSF – Land Subject to Flooding)
- Clause 5.2.1 (General Height Control);
- Clause 5.2.4.1 (Car Parking Spaces)
- Clause 5.2.4.4 (Layout of Car Parking Areas)
- Clause 5.2.5 (Loading Bays)
- Clause 5.2.6.1 (Landscaping in Zones Other Than Zone CB)
- Clause 5.5.3 (General Building and Site Design)
- Clause 5.8.9 (Excavation and Fill)

are all relevant to the subject site and proposed development and land use.

Further information is required for the reasons given below.

The application was previously considered by the Authority on 9th August 2023 where the application was deferred to allow the Applicant to provide the following information –

1. an updated Traffic Impact Assessment report is to be prepared by a suitably qualified traffic engineer, the report is to be generally in accordance with the document dated 14 April 2023 (prepared by Stantec Australia Pty Ltd), with updates and further attention made to:

(a) ensuring the “study area” and “project scope” referenced in the (updated) report encompasses the entire Alice Springs Hospital Campus being: - Lot 4579, 6 Gap Road and associated car parking areas and vehicle access points - the leased “car park” on part of Lot 8167, 2 Traeger Avenue and its access via Lot 8168 - the leased “car park” on part of Lot 1018, 2 Stuart Terrace and its access via Simpson Street

(b) ensuring the legal property boundaries of Lot 8168 and interface with adjacent lots are referenced in the report and associated diagrams

(c) correcting the number of car parking and motorcycle spaces within the multi-storey car park on Lot 4579 (referenced within the report

(d) correcting the number of dialysis chairs and car parking spaces proposed for Lot 8168 (references in traffic report to align with updated drawings).

(e) Review of the guidance provided in Objective 15.2 (sub-clauses iii. and iv.) of the Central Alice Springs Area Plan.

(f) review of traffic volume calculations (existing and proposed) with updated commentary and modelling provided on:

- *updated information obtained for points (a) to (e) – listed above*
- *hours of operation of the proposed medical clinic (renal dialysis on Lot 8168), typical shift change times and patient arrival and departure times*
- *student arrival / departure times at the education establishment located on Lot 8167, 8 Traeger Avenue*
- *visiting hours for the main ward block at the hospital building (Lot 4579)*
- *typical shift change times for the Alice Springs Hospital campus*
- *typical arrival times for persons attending “day surgery” or similar procedures at the hospital*
- *vehicle access controls to car parking areas (eg: the sliding gates to the proposed southern car parking area on Lot 8168 and the sliding gate access to the existing staff car park on Lot 8167) in terms of vehicle queuing and availability of car parking spaces*

(g) Explanation of how the development design achieves the “Acceptable Land Use and Development Response” criteria set out in sections iii. and iv. of Objective 15.2 of the Central Alice Springs Area Plan.

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(h) Verifying that that the design of the development and use is “located, designed, operated and maintained to avoid adverse impacts on the local road network” (Zone Outcome 3(d) for Zone CP).

(i) modelling of the adjacent intersections and identifying (within the report): - how the (design of the development limits the) number of vehicle access points to the road/s have been limited (to comply with subclause 9 of Clause 5.2.4.4) - any upgrades required to the surrounding:

- street network (vehicle carriageways, vehicle access points) to Lot 4579 & 8168,
- street parking and verges (eg: footpaths, kerb crossovers, driver and pedestrian sightlines) to the requirements of the Alice Springs Town Council (agency responsible for control of Gap Road and Traeger Avenue road reserves) and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (public and school bus services).

On 17 November 2023, the applicant responded to the points of deferral, which included a covering letter and amended Traffic Impact Assessment to address the deferral points. No changes were made to the drawings/design. The DAS Report on pages 2,3 and 4 notes some of the deficiencies in the deferral response including, inter alia, that the “traffic study of the surrounding road network” was undertaken on 24/11/2021, suggesting that the empirical vehicle movements associated with the multi storey car park (>279 spaces) on Lot 4579 which was opened in August 2022 have not been taken into account. The Report also notes that the deferral response was emailed to Alice Springs Town Council and DIPL (Transport) on 12/12/2023. Comments were received from DIPL (Transport) dated 22/01/2024 and identified several matters for the applicant’s review. On the morning of the current meeting (7th February 2024) the applicant sought to table a response to the matters raised by DIPL (Transport), but there was insufficient time for the relevant authorities to comment on the response. The Alice Springs Town Council have not provided comment but the Council representative present at the meeting indicated that Council wished to do so.

The proposed development / use complies with Clause 5.2.4.1 (Car Parking Spaces) in terms of providing the required number of car parking spaces on Lot 8168 for a medical clinic use, however, this will remove part of the existing “car parking area” for the Alice Springs Hospital. Parts of the car parking area and driveways do not fully comply with Clause 5.2.4.4 (Layout of Car Parking Areas).

Pursuant to sub-clause 5 of Clause 1.10 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme 2020, *the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:*

- (a) The purpose and administration clauses of the requirement; and*
- (b) The considerations listed under Clause 1.10(3) or 1.10(4).*

(a) Clause 5.2.4.4 (Layout of Car Parking Areas)

The purpose of clause 5.2.4.4 is to - *ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose.*

The proposal (as exhibited and material submitted on 17 November 2023 responding to a deferral):

- shows the required amount of car parking spaces within the drawings which will be located within a parking area primarily accessed off Traeger Avenue, and the Gap Road “service lane”.

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- Included a Traffic Impact Assessment (updated version dated 15 November 2023) prepared specifically for the proposed building, but based on a traffic survey undertaken in 2021.

Sub-clause 9 of Clause 5.2.4.4 specifies that -*the number of access points to the road are to be limited.*

For Lot 8168, the development application proposes:

- Traeger Avenue - widening crossover and changing design from “exit only” to an entry and exit.
- Gap Road (service road) – construction of two new vehicle crossovers (entry and exit) and
- Gap Road - retention of the existing (entry and exit) crossover at the north east corner of Lot 8168 to the main carriageway of Gap Road.

Administratively, sub-clause 5 of Clause 5.2.4.4 provides that - *the consent authority may consent to a car parking area that is not in accordance with sub-clause 9 if it is satisfied that the non-compliance will not result in adverse impacts on the local road network or internal functionality of the car parking area.*

Zone Outcome 3 for Zone CP is relevant in terms of - *all development, including public infrastructure and outbuildings, is located, designed, operated and maintained to:*

(d) avoid adverse impacts on the local road network;

(e) provides safe and convenient pedestrian and bicycle access within the development and strong connections to external transport networks;

With regard to the guidance contained in the Central Alice Springs Area Plan, the subject site is located within Focus Area C (Commercial / Mixed Use, Medical and Health Services). Objective 15.2 of the Plan specifies that acceptable land use and development response is:

iii - Locate and consolidate vehicle access, parking and loading areas away from street frontages

iv - Open, ground level car parking areas designed to reduce heat island effects such as through tree planting and shade structures

To enable the Development Consent Authority to consider the development application properly against the aforementioned NTPS2020 criteria, including vehicle access arrangements and impact on local road network, additional information in the form of an updated Traffic Impact Assessment and concurrence from service authorities is considered necessary.

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

The Development Consent Authority acknowledges the demonstrated need for the proposed medical clinic at the hospital campus to support the health care needs in the Central Australian region and is supportive of the proposed use and design of the proposed building, however, the Authority were not satisfied with the Traffic Impact Assessment as it appears to be based on outdated data and on assumptions that do not accurately reflect the current operation of the hospital campus (e.g. effect of multi storey car park facility), does not adequately consider the surrounding context and other nearby uses (e.g. School, pre-school, Central Australian Aboriginal Congress Clinic, backpackers accommodation) and does not adequately consider

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public transport, pedestrian and bicycle movements. It is also considered that the peak times used in the assessment do not represent what the consent authority would consider to be standard peak times (and does not include consideration of school pick up and drop off times, hospital shift changes etc.).

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the Development Consent Authority must, in considering a development application, take into account the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The Development Consent Authority noted diagrams (Figures 2.9 and 2.10), provided by the Applicant at pages 14 and 15 of the updated TIA, illustrating crash data for 2011 to 2020 in the locality in which the proposed renal clinic is to be located and consider that those diagrams illustrate the difficult nature of the traffic environment on the surrounding road network, particularly in, light of the sensitive uses, including the hospital campus and the abutting school. It was made clear at the meeting that the Traffic Impact Assessment (dated 15/11/2023), included with the applicants response to the deferral, was based on a traffic survey undertaken on 24/11/2021, at which time:

- Some NT Chief Health Officers COVID-19 related directions would have been in force which restricted travel, social distancing, gatherings etc.
- The multi-storey car park on Lot 4579 had not been constructed.

To enable the Authority to properly consider the development application, including vehicle access arrangements and impact on the abutting road network, additional information in the form of an updated Traffic Impact Assessment, based on current (2024) data and site conditions is considered necessary, together with appropriate comments from the relevant authorities.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: DAS to send Letter of deferral to applicant.

ITEM 2

PA2023/0382

CHANGE OF USE (PART OF SITE) FROM SHOP TO FOOD PREMISES-RESTAURANT LOT 71 (64) TODD STREET, TOWN OF ALICE SPRINGS

APPLICANT

Tatam Planning Co

Pursuant to section 97 of the *Planning Act 1999*, Matt Paterson, Community Member of the Alice Spring's Division of the Development Consent Authority disclosed an interest and was not present during, contribute to or took part in the deliberation or decision of the Division in relation to Item 2.

Attendance via video link: Applicant Cat Tatam

RESOLVED 05/24

That, the Development Consent Authority vary the requirements of Clause 5.2.4.1 (Car Parking Spaces), Clause 5.2.5 (Loading Bays) Clause 5.2.6 (Landscaping) and Clause 5.5.13 (Design in Commercial and Mixed Use Areas) of the Northern Territory Planning Scheme

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2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 71 (64) Todd Street, Town of Alice Springs for the purpose of change of use (part of site) from shop to food premises-restaurant, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of drawings and prior to commencement of works, amended drawings to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the drawings will be endorsed and will then form part of the permit. The drawings must be drawn to scale with dimensions and must be generally in accordance with the drawings submitted with the development application (Bookmark B of agenda report for 07/02/2024 DCA meeting) and the applicant's response to the request for further information submitted on 08/01/2024, but further modified to show:
 - a) The *outdoor area* on Lot 71 relabelled on the drawings as *alfresco dining area*
 - b) The fence that has been constructed on the shared boundary of Lot 70 (building materials, colour and height labelled on site plan)
 - c) Details of pedestrian access for customers of the food premises-restaurant on Lot 71 to/from Lot 8475 (Todd Mall). Path of travel is to be shown on drawings and verification that there is no legal impediment to travel between Lots 71 and 5176 (noting that each parcel is on a separate land title).
2. Prior to the commencement of works, a waste management plan (garbage and recycling for the use) must be prepared, to the requirements of the Alice Springs Town Council, to the satisfaction of the consent authority.

Amended drawings and documentation prepared in response to Conditions Precedent 1 and 2 may be submitted to the Development Consent Authority C/- Development Assessment Services, Department of Infrastructure, Planning and Logistics, via email to das.ntg@nt.gov.au.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. Before the use of the food premises-restaurant starts, the landscaping works shown on the endorsed drawings must be carried out and completed to the satisfaction of the consent authority.
5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity services to the development shown on the endorsed drawings in accordance with the authorities' requirements and relevant legislation at the time. Please refer to 'Notation 2' for further information.
7. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and

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condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.

8. Any new substation, fire booster and water meter arrangements associated with works approved by this permit are to be appropriately screened from public view (to soften the visual impact of such infrastructure on the streetscape and public areas), to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Rescue Service.

NOTES:

1. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <https://ntepa.nt.gov.au/publications-and-advice/environmental-management>. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act. 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. The applicant is advised to engage a Northern Territory registered building certifier to ensure that the intended use of any existing buildings or structures is permitted by occupancy certification in accordance with the *Building Act 1993*.
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. 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.
4. Notwithstanding the approved plans, all signage is subject to Alice Springs Town Council approval, at no cost to Council. A "Permit to Work Within a Road Reserve" (or similar) may be required from Alice Springs Town Council before commencement of any work within the road reserve or Lots 70 and 8475).
5. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the Public and Environmental Health Act 2011 and the Food Act 2004.

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6. Part of the subject site is a declared heritage place, and no work is to be carried out within the declared heritage place without following appropriate processes under the terms of the *Heritage Act 2011*.
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 writing before the permit expires.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority in considering a development application, *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, which is zoned CB (Central Business) and also subject to the Overlay listed in Clause 3.6 (LSF – Land Subject to Flooding).

The application for change of use from shop to food premises–restaurant requires consent under Clause 1.8 (When development consent is required). Although it is listed as a permitted use in the zone, it is Merit Assessable under Clause 1.8 (1) (b) (i) and (ii), because it falls within an overlay and does not comply with all relevant development requirements in Part 5. Therefore, pursuant to sub-clause 3 of Clause 1.10 of the NTPS2020, the Development Consent Authority (“Consent Authority”), in considering the development application, must take into account all of the following:
(a) the 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; and
(c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6.”

The Consent Authority notes that neither Clause 5.5.1.1 (Interchangeable Use and Development in Zone CB) nor Clause 5.5.4 (Expansion of Existing Use or Development in Zones CB, C, SC and TC) are applicable to the application.

The zone purpose and outcomes of Clause 4.10 (Zone CB – Central Business) of the NTPS2020, and requirements listed in:

- Clause 2.2.3(c) – Central Alice Springs Area Plan
- Clause 3.6 (LSF – Land Subject to Flooding)
- Clause 5.2.1 (General Height Control);
- Clause 5.2.4.1 (Car Parking Spaces)
- Clause 5.2.5 (Loading Bays)
- Clause 5.2.6.2 (Landscaping in Zone CB)
- Clause 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC)
- Clause 5.5.3 (General Building and Site Design)
- Clause 5.5.11 (Food Premises)
- Clause 5.5.15 (Design in Commercial and Mixed Use Areas)
- Clause 5.9.1.1 (Building Design in Alice Springs Town Centre)
- Clause 5.9.1.2 (Volumetric Control)
- Clause 5.9.1.3 (Active Street Frontages in Alice Springs Town Centre)

are all relevant to the subject site and proposed “development” as defined in the *Planning Act 1999*.

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These clauses have been considered in the context of section 51(3) of the *Planning Act 1999* which specifies that when *considering a development application under subsection (1) of section 51, the consent authority must apply the relevant considerations to only those components of the development that triggered the requirement for consent under the planning scheme.* It is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.2.4.1 (Car Parking Spaces), Clause 5.2.5 (Loading Bays), Clause 5.2.6.2 (Landscaping in Zone CB) and Clause 5.5.15 (Design in Commercial and Mixed Use Areas).

The proposed establishment of a food premises-restaurant on part of the site is consistent with the purpose statement for Zone CB (Central Business) which is to - *promote an active and attractive mixed use environment that maximises its function as the commercial, cultural, administrative, tourist and civic centre for the surrounding region that is integrated with high density residential development.*

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 use or development which is not in accordance with a requirement set out in Parts 3 and 5 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).*

The Consent Authority notes that the present application for a Food Premises-Restaurant is for use at an existing tenancy within Lot 71 Town of Alice Springs. The Tropic of Capricorn Bar, located next door at 62 Todd Street, was recently approved as a Bar-Public with ancillary Food Premises - Café/Takeaway (food truck) under DP23/0193. The present application is intended to provide a restaurant to complement the approved Bar-Public use on the adjacent site.

Clause 5.2.4.1 (Car Parking Spaces)

The proposal has been found not to be in accordance with sub-clause 4 of Clause 5.2.4.1 (Car Parking Spaces), because it will remove 2 designated car parking spaces from the site (shown on the drawings for DP03/0427), create additional “net floor area” on the site (in the form of alfresco dining areas) and zero car parking spaces will be provided on the site. The assessed shortfall attributed to the change of use of part of the site and associated works has been calculated as 15 car parking spaces.

Administratively, sub-clause 2 of Clause 5.2.4.1 provides that the Consent Authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to:

- (a) the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;
- (b) the provision of car parking spaces in the vicinity of the land;
- (c) the availability of public transport in the vicinity of the land; and
- (d) the potential impact on the surrounding road network and the amenity of the locality and adjoining property;

The Consent Authority considers that a variation to this clause is appropriate in this instance because the proposal is consistent with the purpose of Clause 5.2.4 to “*Ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a site*” in that the proposed food premises-restaurant is located in close proximity to off-street, Alice Springs Town Council owned, publically assessable car parking spaces located adjacent to the site at Lots 69 and 70 and nearby

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Lots 68 and 10868. Comments received from the Alice Springs Town Council (dated 30/11/2023) raised no opposition in relation to the application in general terms, did not request any conditions to be included on a development permit and did not comment on matters associated with the car parking shortfall (e.g.: section 70 and 71 of the *Planning Act 1999*) or use of Council owned car parking spaces.

Clause 5.2.5 (Loading Bays)

The proposed development on part of the site does not comply with the requirements of sub-clause 3 of Clause 5.2.5 as no designated loading bay/s are provided on Lot 71 (instead of the minimum one for a food premises-restaurant land use).

Administratively, sub-clause 1 of Clause 5.2.5 provides that - *the consent authority may consent to a use or development that is not in accordance with sub-clauses 3 and 4 only if it is satisfied sufficient, safe and functional loading areas are available to meet the needs of the use with regard to:*

- (a) the scale of the use and development on the site;*
- (b) any potential adverse impacts on the local road network; and*
- (c) any agreements for off-site loading and unloading of vehicles, such shared loading areas or approval to carry out loading activities in a laneway or secondary street.*

The Consent Authority considers that a variation to this clause is appropriate in this instance because the proposal is consistent with the purpose of Clause 5.2.5 in that the occupants of the proposed site will have convenient access to an area established for the loading and unloading of vehicles associated with the “Tropic of Capricorn” (Bar-public with ancillary food premises-café/takeaway approved through DP23/0193. The scale of the use is small enough such that it can share a loading bay with neighbouring land uses and the proposed site for the loading bay operates generally with Alice Springs Town Council’s approval.

5.2.6 Landscaping

The DAS Report states that the proposed development is required to provide 30m² of “landscape planting” (which is 10% of the site as per sub-clause 5.2.6.2 Landscaping in Zone CB). The application shows only 9.7m² of “landscape planting”. The drawings were revised by the applicant after they were lodged to show pot plants spread throughout the site. Administratively, “The consent authority may consent to a development that is not in accordance with sub-clause 3 if: (a) it is a small development and the consent authority is satisfied that it would be unreasonable to provide the required landscaping, having regard to the intended use of the development or whether the development would become unfeasible; or (b) the development provides an alternative response to achieve the purpose of this clause.” The Consent Authority considers that a variation to this clause is appropriate in this instance because of the small nature of the development and its integration with the other aspects of the Tropic of Capricorn on the adjacent site.

Clause 5.5.15 (Design in Commercial and Mixed Use Areas)

The application (as amended) does not comply with the requirements of sub-clauses 15 and 23 as the drawings do not show/provide designated areas on Lot 71 for rubbish collection, or demonstrate that services and utilities associated with the use will be integrated into the development or screened from adjoining properties and the public domain.

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As provided for in sub-clause 3 - *the consent authority may consent to a development that is not in accordance with sub-clause 15 if it is satisfied that services and utilities are appropriately concealed within the development to minimise their visual impact on the public domain.*

The proposed development works will entail refurbishment of a single storey building and construction of an alfresco dining area on part of the site. Upgrading/replacement of utility infrastructure and air conditioning requirements for these works are anticipated to be minor and standard conditions on a permit will ensure visual amenity to the public realm is maintained.

As provided for in sub-clause 11 - *the consent authority may consent to a development that is not in accordance with sub-clause 23 if it is satisfied that the development provides an appropriate response to waste management.* A condition precedent has been included on the permit to require a waste management plan for the development and use to be submitted to the Alice Springs Town Council for consideration and approval.

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 physical characteristics of the land are considered suitable for the proposed change of use of the existing building and construction of an alfresco dining area. No filling of the site will be required and the site is commercial property within an established central business district. 1% AEP flood mapping indicates that the land is liable to inundation, however, no “habitable rooms” are included within the development/use. Conditions and advisory notes included in a development permit may be expected to assist in ensuring appropriate management dust and noise during construction. Conditions of approval will address the Alice Springs Town Council’s requirements in terms of works/impact on the adjacent road reserves, business signage and storm water drainage.

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the Development Consent Authority must, in considering a development application, take into account the public utilities or infrastructure provided in the area in which the land is situated, services to be connected to the land and the requirement, if any, for those facilities or infrastructure to be provided by the developer:

The conditions of approval and advisory notes are intended to assist in ensuring:

- a. Service authority interests are duly recognised in terms of storm water drainage, works within the road reserves, connections to and upgrading of electricity supply, water supply and sewerage services that apply to the development on the site; and
 - b. The NTPS2020 objectives and development performance criteria relating to access, works within road reserves and the provision of services/infrastructure will be complied with.
5. Pursuant to section 51(1)(n) of the *Planning Act 1999*, 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.

Subject to compliance with conditions of approval, the change of use of part of the site and associated works is expected to positively contribute to the existing and future amenity of the area as it is consistent with the purpose and objectives of Zone

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CB. The proposal activates parts of the Todd Mall that has vacant tenancies and will contribute to the vibrancy of the Alice Springs CBD.

6. Pursuant to section 51(1)(r) of the Planning Act 1999, in considering a development application, the Development Consent Authority is required to take into account any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the Heritage Act 2011. Part of the subject site is a declared heritage place (administrative Lot 9246 – shown on survey plan S2000/039), the proposed change of use and building works will occur in the north west corner of Lot 71 and not impact on the declared heritage place the Heritage Branch of the Department of Territory Families, Housing and Communities advised of no requirements. The assessment of the application did not identify any declared natural or cultural values relevant to the subject site.
7. Notification of the application was undertaken in accordance with the requirements of the Planning Act 1999 and the Planning Regulations 2000 that were in force at the time of lodgement. No public or local government council submissions were received.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

**ITEM 3
PA2023/0370**

**ROOMING ACCOMMODATION (23 STUDENT AND STAFF ACCOMMODATION UNITS) ANCILLARY TO AN EXISTING EDUCATION ESTABLISHMENT
LOT 7399 (25) LOVEGROVE DRIVE, ARALUEN, TOWN OF ALICE SPRINGS**

APPLICANTS

NT Link Pty Ltd & Future Urban Pty Ltd

Attendance in person: Applicants: -Michael Osborn (Director Future Urban), Christopher Webber (Senior Consultant Future Urban) and Tony Smith (NT Link),
Attending from Yipirinya School Dr Gavin Morris (Principal) and Christopher Tee.

Attendance via videolink: Matthew Carcuro and Anthony Green (NT Link)

**RESOLVED
05/24**

That, the Development Consent Authority vary the requirements of Clause 5.2.4.1 (Car Parking Spaces) and Clause 5.2.4.4 (Layout of Car Parking Areas) 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 7399 (25) Lovegrove Drive, Araluen, Town of Alice Springs for the purpose of rooming accommodation (23 student and staff accommodation units) ancillary to a education establishment, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of drawings and prior to the commencement of works:
 - (i) a revised storm water management plan for the development; and
 - (ii) detailed 'For Construction' design documentation for all proposed works affecting Crown land 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.

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Documentation prepared in response to Condition Precedent 1 may be submitted to the Development Consent Authority C/- Development Assessment Services, Department of Infrastructure, Planning and Logistics, via email to das.ntg@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. 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.
4. 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.
5. Before the development/use approved by this permit starts, the landscaping works shown on the endorsed drawings must be carried out and completed to the satisfaction of the consent authority.
6. The landscaping shown on the endorsed drawings must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
7. Before the use or occupation of the development starts, the areas set-aside for the parking of vehicles and access lanes as shown on the endorsed drawings must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) either surfaced with an all-weather-seal coat, or suitably dust suppressed (using road base / crushed rock or similar as per drawings) and thereafter maintained;
 - (d) drained;
 - (e) delineated (wheel stops, line marked or similar) to indicate each car space; and to the satisfaction of the consent authority. Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity services to the development shown on the endorsed drawings in accordance with the authorities' requirements and relevant legislation at the time. Please refer to Notation 4 for further information.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Land Development Unit of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
10. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, to the satisfaction of the consent authority.

NOTES:

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1. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <https://ntepa.nt.gov.au/publications-and-advice/environmental-management>.

The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

2. All land in the Northern Territory is subject to the Weeds Management Act 2001 (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection. Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to weedinfo@nt.gov.au
3. 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.
4. 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.
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.
6. 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
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.

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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 in considering a development application, take into account any planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land which is zoned CP (Community Purpose) and the existing primary use of the site is an education establishment (Yipirinya Primary School) which is permitted in Zone CP.

As provided for under sub-clause 1(a) of Clause 1.9 of the NTPS2020, ancillary “rooming accommodation” (student and staff accommodation) is permitted without consent subject to compliance with:

- Clause 3.2 (CNV – Clearing of Native Vegetation)
- Clause 5.2.1 (General Height Control)
- Clause 5.2.4.1 (Car Parking Spaces)
- Clause 5.2.4.4 (Layout of Car Parking Spaces)
- Clause 5.2.6.1 (Landscaping in Zones Other Than Zone CB)
- Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
- Clause 5.4.3.2 (Distance Between Residential Buildings on One Site)
- Clause 5.4.7 (Communal Open Space)
- Clause 5.4.8 (Residential Building Design)
- Clause 5.4.17 (Building Articulation)

The Development Application material (as amended) has been assessed by the Development Consent Authority and is considered to be compliant with requirements of all clauses with the exception of:

- Clause 5.2.4.1 (Car Parking Spaces)
- Clause 5.2.4.4 (Layout of Car Parking Spaces)

Therefore, pursuant to sub-clause 1(b) of Clause 1.9 of the NT Planning Scheme 2020, the ancillary rooming accommodation requires consent and the level of assessment that applies is Merit Assessable.

Pursuant to sub-clause 3 of Clause 1.8, in considering an application for consent for a use or development identified as Merit Assessable the consent authority must take into account all of the following:

- (a) *the 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; and*
- (c) *the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6.*

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), sub-clause 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).*

Clause 5.2.4.1 Car Parking Spaces

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- (a) The purpose of Clause 5.2.4.1 is to - *ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a site.* The proposal does not comply with sub-clause 4 of Clause 5.2.4.1 because the development does not provide the minimum number of car parking spaces required for the ancillary rooming accommodation use.

It is considered that the development is technically required to provide a minimum of 29 car parking spaces for the rooming accommodation use but results in a shortfall of 7 spaces. (22 parking spaces are shown on the drawings provided as part of the application).

As provided for in sub-clause 2 of Clause 5.2.4.1, *the consent authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to:*

- (a) *the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;*
- (b) *the provision of car parking spaces in the vicinity of the land;*
- (c) *the availability of public transport in the vicinity of the land; and*
- (d) *the potential impact on the surrounding road network and the amenity of the locality and adjoining property.*

Clause 5.2.4.4 (Layout of Car Parking Areas)

The purpose of Clause 5.2.4.4 is to - *ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose.*

Sub Clause (7)(b) requires that a car parking area is to be - *sealed and well drained in urban areas, or dust suppressed in non-urban areas.* It is noted that the development does not comply as it intends to provide a dust suppressed (unsealed) parking area through the use of diamond grid and compacted gravel for car parking spaces and driveways associated with the rooming accommodation. The existing main driveways and car parking areas for the education establishment will remain sealed.

Administration Clause (4) of 5.2.4.4 states that - *the consent authority may consent to a car parking area that is not in accordance with sub-clauses 7 and 8 if it is satisfied that the design and construction is safe and functional with regard to the location of the development*

A variation to this sub-clause is supported in this instance because:

- The proposed location for development within Lot 7399 does not adjoin any immediate road network with adjoining land zoned CN (Conservation) and managed by the Crown.
- Although the development is proposed to be unsealed, the layout complies with the diagram to Clause 5.2.4.4 which is practical in design and allows for vehicles to enter and leave the site in a forward gear.
- Providing an unsealed parking area may assist with infiltration of storm water within the site and mitigating heat island impacts considering the area has very little tree coverage in an open area within the block.
- The rooming accommodation car parking area is not expected to be in high use, with main driveways for the site and car parking spaces for the school remaining sealed;
- No adverse impacts with relation to road safety or sightlines is anticipated as a result of not providing an unsealed parking area for part of the site.

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- The use of diamond grid may help mitigate the potential impacts for dust by compressing the car parking area.
3. Pursuant to section 51(1)(h) of the *Planning Act 1999*, in considering a development application the consent authority must take into account the merits of the proposed development as demonstrated in the application. The proposed development will benefit the community through the provision of residential accommodation for students and staff. The proposal demonstrates a high level of compliance with the purpose statements and requirements of the NT Planning Scheme 2020.
 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.
 5. The physical characteristics of the land are considered suitable for the proposed development and use. Conditions and advisory notes included in the development permit are expected to assist in ensuring that the development provides a positive contribution to the locality by incorporating quality landscape and communal open space that can respond to the ongoing land use over a duration of time. Conditions of approval will need to reformulate stormwater drainage plans as a means of ensuring adequate discharge methods with relation to adjoining Crown land and associated drainage easements.
 6. 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.

No potential impacts are considered to arise as a result of additional rooming accommodation being developed on Lot 7399. Consideration has been given to the distance between the location of development, adjoining land uses, and the nearest residential zoning which are noted as either being vacant land uses or considerable distances from each other which will mitigate concerns related to noise.

7. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the Consent Authority must, in considering a development application, take into account the public utilities or infrastructure provided in the area in which the land is situated, services to be connected to the land and the requirement, if any, for those facilities or infrastructure to be provided by the developer:

The conditions of approval and advisory notes are intended to assist in ensuring:

- Service authority interests are duly recognised in terms of storm water drainage, works within the road reserves, connections to and upgrading of electricity supply, water supply and sewerage services that apply to the development of the site; and
 - The NTPS 2020 objectives and development performance criteria relating to access, works within road reserves and the provision of services/infrastructure will be complied with.
5. Notification of the application was undertaken in accordance with the requirements of the *Planning Act 1999* and the *Planning Regulations 2000* that were in force at the time of lodgement. No public or local government council submissions were received.

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FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit to be drafted.

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

SUZANNE PHILIP

Chair

20 February 2024