



DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING NO. 287 – WEDNESDAY 13 NOVEMBER 2024

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

MEMBERS PRESENT: Suzanne Philip (Chair), Deepika Mathur, Chris Neck and Matt Paterson (Mr Paterson attended for Items 1 and 2 only)

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Chay Garde, Ben Taylor, Kieran Marsh, Nellie Reinhard, Perlie Clarke and Courtney Ackerman (Development Assessment Services)

COUNCIL REPRESENTATIVE: Matthew Raymond

Meeting opened at 10.45 am and closed at 12.30 pm

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 **3 X 2 BEDROOM DWELLING-GROUP IN 2 X 1 STOREY BUILDINGS**
PA2024/0231
NT PORTION 7954 (44) AHERTE CRESCENT, KILGARIFF, ALICE SPRINGS

APPLICANT **BRENDAN HEENAN**

Attended in person: Applicant, Brendan Heenan and Matthew Twohig (Draftsman).

RESOLVED That, the Development Consent Authority vary the requirements of Clause 40/24 5.2.4.4 (Layout of Car Parking Areas) 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 5.4.6.1 (Private Open Space for Dwellings – single, Dwellings – independent and Dwellings – group) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop NT Portion 7954 (44) Aherte Crescent, Kilgariff, Alice Springs for the purpose of 3 x 2 bedroom dwelling – group in 2 x 1 storey buildings, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Alice Springs Town Council.
3. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Alice Springs Town Council, to the satisfaction of the consent authority.
4. 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.
5. 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.
6. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street, in accordance with the requirements of Alice Springs Town Council, to the satisfaction of the consent authority.

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7. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
8. 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.
9. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
10. 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 drawings in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 1 for further information.
11. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both: waterdevelopment@powerwater.com.au and powerconnections@powerwater.com.au
12. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the meters within the development in accordance with the allocation. A Certificate of Compliance (section 65 of Planning Act 1999) will not be able to be granted until such time as addressing is obtained.
13. 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 Lands, Planning and Environment 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.

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. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5354 (surveylandrecords@nt.gov.au).
3. 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.
4. For the purposes of best practice land management and environmental protection it is recommended that a Type 1 Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Lands, Planning and Environment ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. 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. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
5. 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
6. A "Permit to Work Within a Road Reserve" may be required from the Alice Springs Town before commencement of any work within the road reserve.
7. Waste bin storage and collection shall be provided in accordance with Alice Springs Town Council requirements.
8. 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.

9. 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 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 LMR (Low Medium Density Residential) The proposed development and use requires consent under Clause 1.8 (When development consent is required). “Dwelling-Group” (3+) is identified as ‘merit assessable’ under sub-clause 1.8(1)(b)(i) of the NTPS2020. In considering an application for consent for a use or development that has become merit assessable the consent authority must take into account the relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6, any overlays and associated requirements in Part 3 that apply to the land and 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 following clauses were considered as part of the development assessment;

- 4.3 Zone LMR (Low Medium Density Residential)
- 5.2.1 (General Height Control)
- 5.2.4.1 (Car Parking Spaces)
- 5.2.4.4 (Layout of Car Parking Areas)
- 5.2.6.1 (Landscaping in Zones other than Zone CB)
- 5.4.1 (Residential Density)
- 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
- 5.4.3.2 (Distance Between Residential Buildings on one Site)
- 5.4.6.1 (Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group)
- 5.4.17 (Building Articulation)

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for the following clauses;

- 5.2.4.4 (Layout of Car Parking Areas)
- 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
- 5.4.3.2 (Distance Between Residential Buildings on one Site)
- 5.4.6.1 (Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group)

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).

Clause 5.2.4.4 Layout of Car Parking Areas

The proposal does not comply with sub clause (6)(b) as the landscaped buffering proposed on each side of the car parking area does not provide a minimum depth of 3m.

The proposal does not comply with sub clause (8)(b)(c)(d) of Clause 5.2.4.4 because part of the development does not allow for a vehicle to enter and exit in a forward gear and the design provides garage/ roller doors instead of an allocated parking area for the occupants of units 2 and 3.

Sub clause 3 of Clause 5.2.4.4 states that consent authority may consent to a car parking area that is not in accordance with sub-clause 6 if it is satisfied that the non-compliance will not unreasonably impact on the amenity of the surrounding locality.

A variation is supported to sub clause (6)(b) of Clause 5.2.4.4 because the immediate locality is still within a newly developing subdivision and as a result there is no established landscaping amenity to assess this variation against. The non-compliance is considered inconsequential with regards to amenity because the development proposes a standard crossover design with garage/roller doors which will present a typical low-rise form when viewed from the primary street (Welton Parade).

A variation is supported to sub clause (8)(b)(c)(d) Clause 5.2.4.4 because the parking layout remains functional and adequate for the scale of development.

The proposed crossover is noted as a compliant 6m width for two-way traffic flow which can assist sightlines for occupants when reversing on to Welton Parade.

Each unit is provided with a garage/ roller door design that anticipates enclosed parking to be utilised by the occupants instead of vehicles within the driveway.

Clause 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures

The development does not comply with Clause 5.4.3 "Table A to Clause 5.4.3 Minimum building setbacks for residential buildings and ancillary structures in zones other than RR, RL, R, H and A". Unit 1 has a reduced building setback from the primary street boundary (5.029m) instead of the permitted 6m for residential buildings.

Sub clause 3 of Clause 5.2.4.4 states that 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.

A variation is supported to Clause 5.4.3 because a reduced building setback of unit 1 towards Welton Parade is the only building setback variation identified from the whole dwelling group design. The proximity between the primary street boundary and the closest support column of unit 1 is allocated landscaping which will mitigate any perception of building massing and facilitate breeze penetration. The building orientation of each unit allocates verandahs and Private Open Space towards Aherte Crescent and the western side boundary. As a result, overlooking on to adjoining properties is not anticipated due to the compliant building setbacks provided from the secondary street and the side boundaries.

The southern portions of Kilgariff estate are predominately vacant and awaiting construction. Therefore, a building setback variation of less than 1m can ensure a sympathetic interface is provided without detracting from the consistent building setbacks evident along the established parts of Welton Parade.

Clause 5.4.3.2 Distance Between Residential Buildings on one Site

The development does not comply with sub clause 2 of Clause 5.4.3.2 because the building setback distance between unit 1 and 2 is required to be 3m. The building setback distance does not comply providing around 2.8m in building separation.

Sub clause 1 of Clause 5.4.3.2 states that the consent authority may consent to a development 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 that the design of the development adequately mitigates the adverse effects of building massing and privacy and overlooking impacts that may arise from non-conformity with sub-clauses 2 and 3.

A variation is supported to Clause 5.4.3.2 because the building setback is considered a minor shortfall which does not create any adverse impacts related to building massing or overlooking. The reason why a variation to Clause 5.4.3.2 is required is because the assessment considers that the setback measurement between unit 1 and 2 is between the outer corner of unit 2 bedroom towards the outer corner of unit 1 bedroom. As a result, the building setback is a variation but remains a beneficial response to the purpose of Clause 5.4.3.2.

Clause 5.4.6.1 Private Open Space for Dwellings – single, Dwellings – independent and Dwellings – group

The development does not comply with sub clause 2(a) of Clause 5.4.6.1 because units 2 and 3 do not satisfy the minimum open to sky requirements

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as outlined within Table to Clause 5.4.6.1. It is noted that all 3 units are allocated compliant dimensions of POS except that units 2 and 3 provide only 42sqm and 39sqm of open to the sky POS respectively creating shortfalls of 3 and 6sqm. Table A to Clause 5.4.6.1 refers a dwelling group design to provide;

- (a) 45m², open vertically to sky with no dimensions less than 1.5m; and
- (b) 24m², all or partly covered, with no dimension less than 4m.

The development does not comply with sub clause 2(b) of Clause 5.4.6.1 because the allocated POS for units 2 and 3 is not directly accessible and is not provided as an extension of the living area. The arrangement for units 2 and 3 results in the POS being accessed via a hallway that adjoins bedrooms.

The development does not comply with sub clause 2(c) of Clause 5.4.6.1 which requires POS be located to provide views from the dwellings to open space and natural features of the site or locality and reduce overlooking from neighbouring open space and dwellings. It is considered that the POS orientation of units 2 and 3 does not maximise views of the MacDonnell Ranges.

The development does not comply with sub clause 2 (d) which directs that at least half of the POS is permeable to allow stormwater infiltration and lessen runoff from the site. The assessment undertaken has noted that the allocated POS for unit 3 equates 18% of the area as permeable with the majority of the area being paved or covered by verandah.

Sub clause 1 of Clause 5.4.6.1 states that 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.

A variation is supported to Clause 5.4.6.1 because the shortfall of open to sky dimensions for units 2 and 3 is considered minimal. The application notes that the reason why a variation has been requested is because the verandah coverage for units 2 and 3 is wider along the side boundaries to assist shade for the dwellings from the western sun during warmer months. The additional coverage of the verandah ensures that the allocated POS is functional and can be utilised throughout the year. It is noted that the external fence type is to stand 2.4m in height consisting of trimdek cladding.

Although the siting of POS for units 2 and 3 does not maximise views towards the ranges or natural features, the POS is considered to be an adequate size due to the compliant building setbacks along the side boundary which is inclusive of permeable area and paved landscaping.

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

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The consent authority notes that the email submission provided during the period of exhibition cannot be considered a submission in relation to section 51(1)(e) of the *Planning Act 1999* as it fails to comply with the requirements set out in Section 49(5). In that the information provided did not include a formalised name, contact, and address. The consent authority considers the information provided under section 51(1)(t) (other matters it thinks fit) of the *Planning Act 1999*.

- 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 development and use. Conditions and advisory notes included in a development permit may be expected to assist in ensuring appropriate management of erosion during construction. Conditions of approval will address Alice Springs Town Council and requirements in terms of works/impact on the adjacent road reserves and storm water drainage.

- 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 the development complying with the permit conditions and advisory notes, the proposed development is considered to provide a good level of amenity for the occupants and the streetscape.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2024/0183**

DWELLING-GROUP (6 X 3 BEDROOM) IN 1 X 2 STOREY BUILDING

LOT 450 (7) UNDOOLYA ROAD, EASTSIDE, TOWN OF ALICE SPRINGS

APPLICANT

SDARC PTY LTD AS TRUSTEE FOR DUGDALE TRUST

Attended in person: Applicant, Susan Dugdale (SDARC Pty Ltd as Trustee for Dugdale Trust) and Mabel Smede (Work experience student for Susan Dugdale).

**RESOLVED
41/24**

That, the Development Consent Authority vary the requirements of Clause 3.6 (Land Subject to Flooding), Clause 5.4.1 (Residential Density) Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) Clause 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group) Clause 5.2.6.1 (Landscaping in zones other than zone CB) Clause 5.4.8.1 (Building Design for Dwelling-Group, Rooming Accommodation and Residential Care Facility) Clause 5.4.17 (Building Articulation) and Clause 5.4.18.1 (Fencing in Zones MR and HR) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the

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application to develop Lot 450 (7) Undoolya Road, East Side, Town of Alice Springs for the purpose of 6 x 3 bedroom dwelling – group in 1 x 2 storey buildings, 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:
 - (a) Any electric gate, barrier or similar device controlling vehicular access to the premises must be clearly shown as being located a minimum of six metres inside the property to allow vehicles to stand clear of (Undoolya Road) pavement and footpath.
 - (b) Providing detail of proposed surface treatments i.e. gravel, concrete woodchip (permeable paving) etc.

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) drained;
 - (d) line marked to indicate each car space and all access lanes; and
 - (e) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.
3. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the occupants of the development and their (visitors/ clients).
4. Protective kerbs (of a minimum height of 150mm) must be provided to the satisfaction of the consent authority to prevent damage to fences or landscaped areas.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Alice Springs Town Council
6. The kerb crossover and driveway to the site approved by this permit are to meet the technical standards of Alice Springs Town Council, to the satisfaction of the consent authority.

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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. 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.
9. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street, in accordance with the requirements of Alice Springs Town Council, to the satisfaction of the consent authority.
10. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
11. 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.
12. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
13. 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 drawings in accordance with the authorities' requirements and relevant legislation at the time.
14. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both: waterdevelopment@powerwater.com.au and powerconnections@powerwater.com.au
15. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the meters within the development in accordance with the allocation. A Certificate of Compliance (section 65 of Planning Act 1999) will not be able to be granted until such time as addressing is obtained.
16. The finished floor levels of habitable rooms of the dwellings must be no lower than 578.3 metres Australian Height Datum (AHD) which is 300mm

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above the applicable 1% AEP flood level for the property (i.e. 578m AHD). The developer shall demonstrate compliance with this condition by providing “as constructed” finished floor levels of the dwellings, confirmed by a Licensed Surveyor. This condition is 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. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5354 (surveylandrecords@nt.gov.au).
3. 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.
4. 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
5. A “Permit to Work Within a Road Reserve” may be required from the Alice Springs Town Council before commencement of any work within the road reserves.
6. Waste bin storage and collection shall be provided in accordance with Alice Springs Town Council requirements.
7. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act 2005 must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
8. 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*, 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.

Under section 51(3) of the *Planning Act 1999*, when considering a development application under subsection 51(1), the consent authority must apply the relevant considerations to only those components of the development that triggered the requirement for consent under the planning scheme.

The NT Planning Scheme 2020 applies to the development of the subject site, which is zone MR (Medium Density Residential). As set out in sub-clause 1(c) of Clause 1.8 of the NT Planning Scheme 2020 - "dwelling-group" is listed as an Impact Assessable use and development in Zone MR, that requires the exercise of discretion by the consent authority to determine if it is appropriate given the location of the site and the potential impacts on surrounding uses, and if it accords with the Strategic Framework.

Pursuant to sub-clause 4 of Clause 1.10, the Development Consent Authority 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 Zone; and*
- (d) any component of the Strategic Framework relevant to the land as set out in Part 2.

Therefore, the following clauses listed in Part 2, Part 3, Part 4 and Part 5 of the NTPS2020 need to be considered:

- Alice Springs Regional Land Use Plan 2016
- Compact Urban Growth Policy 2015
- 3.6 (LSF – Land Subject to Flooding)
- 4.4 (Zone MR – Medium Density Residential)
- 5.2.1 (General Height Control)
- 5.2.4.1 (Car Parking Spaces)
- 5.2.4.4 (Layout of Car Parking Areas)
- 5.2.6.1 (Landscaping in Zones other than Zone CB)
- 5.4.1 (Residential Density)
- 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
- 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group)
- 5.4.8.1 (Building Design for Dwelling-Group, Rooming Accommodation and Residential Care Facility)

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- 5.4.17 (Building Articulation)
- 5.4.18.1 (Fencing in Zones MR and HR)

The application (as publicly exhibited) does not comply with the following clauses;

- 3.6 (LSF – Land Subject to Flooding)
- 5.2.6.1 (Landscaping in Zones other than Zone CB)
- 5.4.1 (Residential Density)
- 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
- 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group)
- 5.4.8.1 (Building Design for Dwelling-Group, Rooming Accommodation and Residential Care Facility)
- 5.4.17 (Building Articulation)
- 5.4.18.1 (Fencing in Zones MR and HR)

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 or 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 sub-clause 4 of Clause 1.10.

Clause 3.6 LSF Land Subject to Flooding

The proposal does not comply with sub clause (6)(c) of Clause 3.6 because the development intends to use fill and a concrete slab to meet the finished floor level.

Sub clause (5) of Clause 3.6 states that the consent authority may consent to a use or development that is not in accordance with sub-clause 6 only if it is satisfied that the application demonstrates that there is no increased risk to people and property including adjoining property, or increased cost to the community.

The authority determined that a variation to Clause 3.6 is supported because the development intends to address the FFL requirement (577.740m) by providing a finished floor level of (578.540m). As a result, the authority concluded that there is no increased risk to people occupying the dwellings or the property itself.

The authority noted that the developments use of fill is limited to the building footprints and carports, no filling will occur near site boundaries which reduces impact on to adjoining properties and the surrounding community of East Side which is occupied by varying types of dwellings that have used fill.

Clause 5.2.6.1 Landscaping in Zones other than Zone CB

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The development does not comply with sub clause (7) of Clause 5.2.6.1 because the land is zoned MR (Medium Residential) and is required to include planting to the length of the setbacks no less than 2m deep. The proposal intends to provide 1m deep planting along the western boundary.

Sub clause (2) of Clause 5.2.6.1 states that the consent authority may consent to landscaping that is not in accordance with sub-clauses 5, 6 and 7 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes and is appropriate to the site having regard to the amenity of the streetscape, and the potential impact on the amenity of the locality and adjoining property.

The authority is satisfied that the reduction in landscaping depth by 1 metre does not detract from the purpose of Clause 5.2.6.1 because regardless of the landscaping depth being non-compliant, the western boundary is proposed to be landscaped with jasmine vines with a trellis along the fence line.

Sub clause (5) of Clause 4.4 (Medium Density Residential Zone) promotes mid-rise building design, site layout and landscaping which provides a sympathetic interface to the adjoining public spaces and to adjoining lots and provides privacy and attractive outdoor spaces. The authority considers that the reduction in landscaping achieves the desired zone outcome.

Clause 5.4.1 Residential Density

Sub-clause 2 (Table C) of Clause 5.4.1 specifies that, for two storey development, the maximum number of dwellings-group that may be constructed on a Zone MR site in Alice Springs is 1 dwelling per 200m².

The development does not comply with Table C to Clause 5.4.1 dwelling density for dwelling – group and dwelling – single in Zones MR and TC Alice Springs. The application proposes constructing 6 x dwellings-group within a 2-storey residential building on a 1120m² site (i.e.: 1 dwelling per 186.66m²). The proposed design exceeds the maximum permitted density by 0.4 dwellings (rounded up to 1 dwelling) with the overall site area falling short by 80m².

Sub clause (1) of Clause 5.4.1 states that the consent authority may consent to a development that is not in accordance with sub-clause 2 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 authority determined that the primary reason in support of a variation related to the location which consists of increased density which make this proposal compatible with adjoining and nearby development. The service authority raised no adverse comment in relation to the proposed number of dwellings for the site which is within close proximity to areas of public open space, shops and public transport routes. The Authority notes that the variation granted in this case is site and design specific.

The request for the dwelling density variation for this site/locality is also noted for achieving the majority of the criteria listed in sub-clause 1 of Clause 5.4.1 and by meeting the Alice Springs Regional Land Use Plan's promotion of infill development in key localities objective.

Clause 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures

The development does not comply with sub clause (6) (Table C) of Clause 5.4.3 because the development provides a rear building setback shortfall of 2.5m instead of the permitted 3m for residential buildings ancillary structures (and balconies).

Sub clause (3) of Clause 5.4.3 states that 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.

A variation to Clause 5.4.3 is supported because the authority considered the adjoining buildings and height of the proposed development which is compatible with other established development in the locality. The 500mm shortfall towards the rear laneway is not considered inappropriate because the rear laneway is unsealed and used infrequently. As a result, overlooking was not a concern by the authority and no windows on the adjoining/opposite side of the rear laneway face back towards the 7.4m height development.

Clause 5.4.6.1 Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group

The development does not comply with sub clause (2)(a) of Clause 5.4.6.1 because units 2,3,4,5 only provide Private Open Space area of 40m² which is inclusive of both area A and B which requires each unit to have a total of 69m² (Table to Clause 5.4.6.1). The development does not comply with sub clause (2)(b) of Clause 5.4.6.1 because the floor layout design does not enable the POS to be an extension of the function of the dwelling. The allocated Private Open Space is accessed from hallways which are not classified as living areas.

Sub clause (1) of Clause 5.4.6.1 states that 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 authority considered the overall orientation of the building design and shade screening provided for the balconies to mitigate the western sun. The authority supports a variation for the following reasons;

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- The balcony area upstairs is directly accessible from the living room and provides views towards the MacDonnell Ranges and is more likely to be in greater use than the downstairs area.
- Increased shading is appropriate for the hot central Australian climate and will make the private open space more usable /functional
- The private open space is of adequate dimensions for a clothesline and some outdoor living items.
- The applicant (who is an architect) explained that it was more likely that the occupants would utilise the verandah area, but also noted that amended drawings can confirm the extent of permeable areas proposed as part of the private open space.
- An architect has designed the development and consideration has been given regarding needs and demographics of intended occupants, building orientation, functionality.
- The Authority notes that the exercise of its discretion in this regard is specific to this site and design.

Clause 5.4.8.1 Building Design for Dwelling-Group, Rooming Accommodation and Residential Care Facility

The purpose of Clause 5.4.8.1 is to promote site-responsive designs for dwelling-group, rooming accommodation and residential care facility, which provide a pleasant living environment for the occupants and a sympathetic interface with adjoining lots, to minimise unreasonable impacts on the privacy and amenity of surrounding residents.

The authority took into account sub clause (3) of Clause 5.4.8.1 which states “locate development on the site for correct solar orientation”. The authority and the applicant noted the orientation of the building provides compliance with the car parking layout requirements and orientates verandahs towards the view lines of the MacDonnell Ranges. Although correct solar orientation is not provided, it is noted that the arid weather conditions support solar panelling and the addition of balcony pull down blinds mitigates the adverse impacts of the western sun.

Clause 5.4.17 Building Articulation

The development does not comply with sub clause (4) of Clause 5.4.17 because the building line on both sides does not provide 1m by 1m recess for every 15m of the building length at the ground level. It is noted that the balconies provide a level articulated recess of 0.66m for each unit but the overall building length is non-compliant.

Sub clause (2) of Clause 5.4.17 states that the consent authority may consent to a development that is not in accordance with sub-clause 4 only if it is satisfied it is consistent with the purpose of this clause.

The purpose of Clause 5.4.17 is to ensure that residential buildings mitigate the perception of building mass and bulking when viewed from adjoining properties and the street and provide opportunities for cross-ventilation within building design.

The authority considered that although the building does not meet the requirement of Clause 5.4.17 that there was still a level of visual interest/articulation when viewed from the east side with the balcony areas screened with pull down blinds providing varying aesthetics and building material.

Clause 5.4.18.1 Fencing in Zones MR and HR

The development does not comply with sub clause (4)(b) because the proposed 1.8m high fence along the laneway boundary not visually permeable as it is all Good Neighbour Colorbond (solid metal).

Sub-clause 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 the fence enhances the streetscape and allows for passive surveillance to the public domain.

The authority noted that the rear laneway is underutilised with all adjoining lots providing colorbond solid metal fencing towards the rear laneway boundary. As a result, the choice in fencing does not compromise passive surveillance measures towards the rear (unnamed) laneway. The authority is satisfied that the 1.8m visually permeable fencing along the primary street boundary is of more relevance towards achieving a level of passive surveillance.

2. Pursuant to section 51(1)(n) of the *Planning Act 1999*, in considering a development application the Development Consent Authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated.

In considering the potential impact on amenity the Authority will refer to the purpose and administration statements listed in “Part 5” of the NTPS2020 as well as the definition of amenity within the *Planning Act 1999* which states that “*amenity* in relation to a locality or building, means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.”

It is considered that accounting for both the desirable location of the proposal and the well thought out architectural and building design elements the development would positively impact on local amenity.

3. Pursuant to section 51(1)(p)(i) of the *Planning Act 1999*, in considering a development application the Development Consent Authority must take into account the public interest, including how community safety through crime prevention in design matters are provided for in the application.

Although the application did not address the NT Community Safety Design Guide 2010 relevant to a “dwelling-group” development directly, it is considered to generally be a net benefit to the public interest and community safety as the proposal is providing additional urban infill to a vacant site in a

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busy medium residential area, as such an increase in passive surveillance of this part of Undoolya Road can be expected.

RESOLVED
42/24

FOR: 3

AGAINST: 0

ABSTAIN: 1

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2023/0371

CONCURRENT - REZONE PART LOT (1520 SQM) FROM PS (PUBLIC OPEN SPACE) TO LR (LIGHT RESIDENTIAL) AND SUBDIVISION TO CREATE 3 LOTS LOT 8142 (16) MADIGAN STREET BRAITLING, TOWN OF ALICE SPRINGS

APPLICANT

ALICE SPRINGS TOWN COUNCIL

Attended in person: Mikaela Dela Cruz (Senior Project Manager, Alice Springs Town Council (ASTC)), Joel Andrew (Director of Technical Services, ASTC), Noriel Ros (Project Administration Officer, ASTC) and submitter Susan Jane Clark.

Attended via teams: Brendon Ferrigno (Town Planner, JC Engineers) and Greg Dixon (Director, JC Engineers)

Pursuant to section 97 of the *Planning Act 1999*, Matt Paterson, Community Member of the Alice Springs Division of the Development Consent Authority disclosed an interest and was not present during, contributed to or took part in any deliberation or decision of the Division in relation to Item 3.

RESOLVED
43/24

As required by section 30P(1)(a), the consent authority makes a preliminary decision that, if the Minister were to approve the amendment proposal to rezone Lot 8142 (16 Madigan Street, Braitling) that it would be likely to determine to consent to the development under section 30W(1)(a) conditionally for the purpose of a subdivision to create three lots subject to the following conditions (and any other relevant conditions relating to subdivision in zone LR that may be determined as necessary by the consent authority at the time of the decision to issue a development permit).

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works, amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) The area to be kept as public open space (i.e. the new Madigan Park) space, designed in accordance with Table 18 – Public Open Space Hierarchy of the Northern Territory Subdivision Guidelines for the size of public open space proposed,
and

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- (b) Indicative design of the public open space, indicating proposed category of park, facilities, type of embellishments and landscaping.

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. 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.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, 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 2, 3 and 4 for further information.
4. 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 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/>.
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. 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. 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. The Department of Lands, Planning and Environment Erosion and Sediment Control Plan (ESCP) procedures are available at: <https://depws.nt.gov.au/landmanagement>.
6. Resources to assist with the preparation of an ESCP are available on the IECA website www.austieca.com.au and Land Management Factsheets at nt.gov.au/environment/soil-land-vegetation. For further advice, contact the Development Coordination Branch: (08) 8999 4446.
7. 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.

REASONS FOR THE DECISION

1. Pursuant to sections 30P(2)(a) and (b) of the *Planning Act 1999*, the consent authority must take into account any planning scheme that applies to the land to which the application relates, and the amendment proposal contained within the application.

It is identified as Impact Assessable under Clause 1.8(1)(c)(ii), therefore the strategic framework (Part 2 of the Planning Scheme, including the Alice Springs Regional Land Use Plan), zone purpose and outcomes of Clauses 4.2 (Zone RL – Low Density Residential), 4.17 Zone PS – Public Open Space, and Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR).

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These clauses have been considered and it is found that the subdivision to create three lots 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). The proposal seeks to rezone the eastern portion of the site to Zone LR and create two new LR Lots each with an area of 760sqm. This is less than the allowable minimum lot size shown in Table A to Clause 6.2.1 of 800 m².

Although each lot falls below the 800m² minimum required by the zone, the reduction does not exceed 5%, resulting in an area of 760m² for each proposed lot. Therefore, administratively, the consent authority may approve a subdivision that does not meet sub-clauses 5-12, provided it is satisfied that the subdivision aligns with the purpose of this clause, as well as with the zone's purpose and outcomes.

The DCA indicated a willingness to vary the clause to allow for two lots each of 760m² based on the justification from Council that the smaller lot sizes were requested to maintain as much parkland as possible for the third lot (remaining as CP) however it was made clear that this is the maximum allowable discretion to vary the lot size.

The Alice Springs Town Council classifies Madigan Park as excess under their Open Space Network Master Plan. The consent authority is advised that the plan aims to determine the supply of open space in terms of quantity, quality, and location in order for the Council to facilitate upgrades and repurpose parkland that it has identified as being excess to requirements.

The proposed development in Lot 8142 generally aligns with the objectives of the NT Compact Urban Growth Policy. As highlighted in the policy, land is a finite resource, and the current population growth in urban areas has led to the clearing of natural environments to accommodate sprawl. This development would provide an opportunity to facilitate additional infill development by re-purposing part of the parkland that the Council considers excess to requirements.

Additionally, the Alice Springs Regional Land Use Plan highlights the need for adequate land to support housing choice and affordability. The part of the site proposed for future infill development is outside the flood overlay, making it suitable for residential development.

2. Pursuant to Section 30P(2)(l) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the public utilities or infrastructure provided in the area in which the land is situated and any requirement for public facilities and services to be connected to the land; and facilities, infrastructure or land to be provided by the applicant. Service authorities have indicated that they do not have any concerns about the capability of the surrounding public utilities and infrastructure.

The DCA noted in their deliberations that it was the intention of the council to upgrade the remainder of the park to a higher standard with

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additional infrastructure and embellishments. It was also noted that council had advised the DCA that the proceeds from any sale of land to create the new residential lots were to be directly put back into improvements at Madigan Park. These matters are not planning considerations for the purposes of the Planning Act 1999 or the NTPS 2020 but the DCA noted them as information only.

Submitter Susan Jane Clark spoke to her submission advising that in her view the park has been neglected by the Council, that open spaces are crucial for the health, well-being and social cohesion of the local community and urged consideration of the long-term social implications of selling the space. The Submitter also tabled two documents, the first outlining her concerns for the proposed rezoning and subdivision application, the second is an extract from the ASTC park network master plan.

Joel Andrew also spoke to the proposal from the perspective of Council and advised that the council has committed that any money raised through the sale of this land for residential purposes is to go directly back into improvements to the smaller Madigan Park, framing the plan as providing “Quality versus quantity”.

RESOLVED
44/24

Pursuant to section 30Q of the *Planning Act 1999*, the consent authority report to the Minister for Lands, Planning and Environment advising of the likely decision in relation to the development proposal, issues raised in the submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the amendment proposal.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Report to the Minister

RESOLVED
45/24

That, pursuant to section 86(1) of the *Planning Act 1999*, the Development Consent Authority delegates its powers to the Chair or in the absence of the Chair any member of the Alice Springs Division of the Authority to:

- (a) determine pursuant to Section 30W(1)(a) to consent to the development proposal contained in the concurrent application and consent to the concurrent application after receipt of a notice under Section 30U(1) that the Minister has approved the amendment proposal contained in the application;
- (b) issue a development permit under section 54(1) in relation to the development proposal to develop Lot 8142 Town of Alice Springs, 16 Madigan Street, Braitling, for the purpose of subdivision to create three lots;
- (c) and issue the relevant notices under Section 30Y.

FOR: 3

AGAINST: 0

ABSTAIN: 0

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

SUZANNE PHILIP
Chair
27 November 2024