



DEVELOPMENT CONSENT AUTHORITY

PALMERSTON DIVISION

MINUTES

MEETING No. 262 – FRIDAY 9 FEBRUARY 2024

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

MEMBERS PRESENT: Suzanne Philip (Chair), Trevor Dalton, Mark Blackburn, Athina Pascoe-Bell and Sarah Henderson

APOLOGIES: Elisha Harris

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Adelle Godfrey, Fletcher Willis and Daniel Herlihy (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nadine Nilon and Karl Hell

Meeting opened at 10.45 am and closed at 12.15 pm

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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.

The Chair, Development Consent Authority, under section 93(1) of the *Planning Act 1999*, appointed Mark Blackburn who is a member in relation to the Darwin Division, to act as a member for Elisha Harris in relation to the Palmerston Division from 18 January 2024 to 19 February 2024 as Elisha Harris is prevented from performing her duties of office because of absence.

ITEM 1
PA2023/0255 **DWELLING-GROUP (5 X 1 BEDROOM) IN 3 X 1 STOREY BUILDINGS**
LOT 1311 (5) DAVIES COURT, JOHNSTON, TOWN OF PALMERSTON
APPLICANT Cunnington Rosse Town Planning and Consulting

Athina Pascoe-Bell and Sarah Henderson are community members of the Development Consent Authority and councillors respectively, for City of Palmerston. City of Palmerston is a submitter to this application under Section 49 of the *Planning Act 1999*.

The Chair noted that section 98A of the *Planning Act 1999*- Independence of Community Members – contemplates that Community Members, while acting independently, may take account of opinion of a local government council in relation to a development application. No parties present raised any concerns with Athina Pascoe-Bell and Sarah Henderson considering the application. Pursuant to section 97 of the *Planning Act 1999*, the Chair determined that Athina Pascoe-Bell and Sarah Henderson interest or relationship was not significant or relevant, and both were permitted to form part of the quorum and participate in determination of this item.

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting) attended and also in attendance were interested parties Andrea Caddy and Josh Larder both from Cunnington Rosse Town Planning and Consulting.

Submitters: City of Palmerston represented by Nadine Nilon and Karl Hell attended, and Davies Court resident Craig Jones attended.

Interested party: Davies Court resident Emma Kelly attended.

RESOLVED
03/24 That, the Development Consent Authority vary the requirements of Clauses 5.2.4.1 (Car Parking Spaces), 5.2.4.4 (Layout of car parking areas), 5.4.1 (Residential Density), and 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 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 11311 (5) Davies Court, Johnston, Town of Palmerston for the purpose of Dwelling-group (5 x 1 bedroom) in 3 x 1 storey buildings, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works, a stormwater plan shall be prepared to the requirements of the City of Palmerston (as applicable), to the satisfaction

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of the consent authority. The stormwater plan shall show how the on-site management of stormwater is discharge into the local stormwater drainage system.

2. Prior to the commencement of works, in principle approval from the City of Palmerston is required for the crossover to the site, to the satisfaction of the consent authority.
3. Prior to the commencement of works, details of waste servicing shall be submitted to and approved by the City of Palmerston, to the satisfaction of the consent authority.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings, endorsed as forming part of this permit.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, electricity facilities and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
Please refer to notations 2, 3 and 4 for further information.
6. 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.
7. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Palmerston, to the satisfaction of the consent authority.
9. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Palmerston, to the satisfaction of the consent authority. The owner shall:
 - a. remove disused vehicle and/ or pedestrian crossovers; and
 - b. undertake reinstatement works.All to the technical requirements of and at no cost to the City of Palmerston, 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.

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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. 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. surfaced with an all weather seal coat;
 - d. drained; and
 - e. clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
13. Sight lines must be provided at crossovers to public streets to the satisfaction of the City of Palmerston. No fence or tree exceeding 0.6 metres in height is permitted to be planted in sight lines.
14. Storage for waste disposal bins must be provided in accordance with the requirements of, and to the satisfaction of the City of Palmerston.
15. 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.
16. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

NOTES

1. A "Permit to Work Within a Road Reserve" may be required from the City of Palmerston before commencement of any work within the road reserve.
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

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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. Information resources to assist with preparing an Erosion and Sediment Control Plan (ESCP) are available on the International Erosion Control Association website www.austieca.com.au and on the Northern Territory Government website <https://nt.gov.au/environment/soil-land-vegetation>.
6. 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.
7. 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.
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.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and dwellings-group requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(i), therefore Clause 4.3 (Zone LMR – Low-Medium Density Residential), 5.2.1 General Height Control), 5.2.4 (Car Parking), 5.2.6 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.4.1 (Residential Density), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.4 (Extensions and Structures Ancillary to a Dwelling-Group or Dwelling-Multiple Development), 5.4.6 (Private Open

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Space), 5.4.8 (Residential Building Design), 5.4.17 (Building Articulation), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clauses 5.2.4.1 (Car Parking Spaces), 5.2.4.4 (Layout of car parking areas), 5.4.1 (Residential Density) and 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

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).

This application was first considered by the Authority at its meeting on 10th November 2023. The application was subsequently deferred to enable the applicant to provide additional information that the Authority considered necessary in order to enable proper consideration of the application as follows:

- Further information/amended plans demonstrating increased compliance with Clause 5.4.1 (Residential Density), by changing the design to a maximum of 4 dwellings.
- Further information/amended plans demonstrating increased compliance with Clauses 5.2.4.1 (Car Parking Spaces) and 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group).

In considering the initial proposal, the Authority noted six non-compliances with Part 5 requirements of the Planning Scheme with particular concerns raised in regards to dwelling density (where 1 dwelling per 190m² was proposed and 1 dwelling per 300m² is required), car parking spaces (where 7 spaces were proposed and 12 spaces are required), and private open space (where 2 dwellings proposed private open space of 32m² and 45m² is required). The Authority considered these variations, along with variations to car parking layout, building setbacks, and building articulation, and concerns raised by submitters on the potential impact of traffic and on-street parking, as grounds that it could not be satisfied that the scale of the proposed application was appropriate to the site.

The Authority also noted that whilst the proposed development was for specialist disability accommodation and that each dwelling contained one bedroom only, the number of bedrooms was not considered sufficient circumstances to warrant the extent of variations and it was not considered appropriate or enforceable to limit the development to 'specialist disability accommodation' uses only or limiting the occupancy to a single occupant per

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dwelling. The Authority noted that the proposal was for 'dwellings-group' as defined by the Planning Scheme.

An amended proposal was submitted 12 January 2024 and re-circulated to public submitters and City of Palmerston with no further submissions received. The amended design reduces the amount of dwellings to 5 which resulted in improved compliance with Clauses 5.2.4.1 (Car Parking Spaces) and 5.4.1 (Residential Density) as discussed below, and allowed for full compliance with Clauses 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group) and 5.4.17 (Building Articulation).

The proposal remains non-compliant with Clauses 5.2.4.1 (Car Parking Spaces), 5.2.4.4 (Layout of car parking areas), 5.4.1 (Residential Density) and 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) with variations requested for each.

In relation to part (a), the proposal has been found not to be in accordance with Clause 5.2.4.1 (car Parking Spaces) because 8 car parking spaces are proposed where 10 spaces are required. A variation to this clause is seen to be appropriate because:

- The reduced number of car parking is appropriate for the unique design of the development which provides for single-bedroom dwellings and, as identified by the applicant at the DCA meeting, self-limits the number of occupants to below what would normally be anticipated of a dwelling. The proposed 8 car parking spaces allow for 1 dedicated car space per dwelling and 3 shared or visitor car parks should they be required.
- The 8 oversized car parks have the ability to be converted into 11 regular spaces should it be required and would make the proposed development compliant with car parking space requirements of Clause 5.2.4.1.
- In addition, public transport in the way of public bus services are available within 350m distance of the proposed development.

For these reasons, the proposal is considered to meet the purpose of Clause 5.2.4.1 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" and is not anticipated to detrimentally impact on the surrounding road network and amenity of the locality and adjoining property.

In relation to part (a), the proposal has been found not to be in accordance with Clause 5.2.4.4 (Layout of Car Parking Areas) because one section of the driveway is 3.5m, when 6m is required for two-way traffic flow. It is considered that a variation to this clause is appropriate in this instance because:

- The driveway is internal and not expected to have any adverse impacts on the local road network. The 3.5m section of driveway services only 5

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car parking spaces at the rear of the site Furthermore, an engineer's statement was provided within the original application confirming the design supports safe manoeuvrability. The current car parking layout does not differ significantly from the original application and it is expected that safe manoeuvrability is still achievable.

For these reasons it is anticipated that the non-compliance will not result in adverse impacts on the local road network or internal functionality of the car parking area. The proposal is considered to meet the purpose of Clause 5.2.4.4 to ensure that "...a car parking area is appropriately designed, constructed and maintained for its intended purpose."

In relation to part (a), the proposal has been found not to be in accordance with Clause 5.4.1 (Residential Density) with 5 dwellings proposed at a density of 1 dwelling per 228m² where the maximum dwelling density in Zone LMR (Low-Medium Density Residential) is 1 dwelling per 300m². It is considered that a variation to this clause is appropriate in this instance because:

- The proposed development of single bedroom dwellings are self-limiting in the number of occupants as described by the applicant at the DCA meeting, and building footprints and expected occupancy densities are well below that of dwellings in the surrounding locality and are unlikely to impact adversely on the surround amenity.
- No adverse comments were received from Power and Water Services or the City of Palmerston in relation to density, reticulated services or drainage and the land has been developed and zoned for LMR (Low-Medium Density Residential) purposes which shows that the land is capable of accommodating the proposed development.
- The location of the dwellings within the site itself allows appropriate setbacks to adjoining residential lots with proposed reduced setbacks only affecting the boundary adjacent to Zone CN (Conservation) land and a small portion of the primary street boundary due to a garden shed.

As such, the proposal is considered to meet the purpose of Clause 5.4.1 (Residential Density) being "ensure that the development of residential buildings:

- (a) is of a density compatible with adjoining or nearby existing development or development reasonably anticipated;
- (b) is of a density compatible with the existing or planned provision of reticulated services and community facilities which will service the area; and
- (c) is consistent with land capability having regard to relevant characteristics including but not limited to the drainage, slope, seasonal inundation, landforms or soil characteristics, heritage constraints or noise from aircraft operations.

In relation to part (a) the proposal has been found not to be in accordance with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary

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Structures) because the garden shed has a front setback of 4.8m when 6m is required, and a residential building has a side setback of 0.9m when 1.5m is required. It is considered that a variation to this clause is appropriate in this instance because:

- The shed requiring the reduced setback is relatively small and sympathetic to the streetscape and surrounding developments and blends well with the proposed dwelling-group. The size and orientation of the structure minimises any adverse effects of building massing and overlooking of neighbouring properties and does not unduly prevent breeze penetration through and between buildings. The small shed is not an uncommon development within residential areas and is screened from the primary street by landscaping so that it is unlikely to cause negative impact on adjoining and nearby property.
- The non-compliance along the south-eastern side boundary is located approximately 19m from the primary street and is unlikely to have a detrimental effect on the streetscape. The boundary where the non-compliance occurs is adjacent to Zone CV (Conservation) where there is no development. As the non-compliance is well setback from the Primary Street and only affects one corner of the building, it is not likely to cause adverse effects of building massing and undue overlooking or likely prevent breeze penetration. Despite the setback reduction, the building remains appropriate to the site and locality.

The proposal is considered to meet the purpose of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) being to *“ensure that residential buildings and ancillary structures are located in a manner that:*

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

In relation to part (b) the considerations listed under Clause 1.10(3) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clauses 5.2.4.1 (Car Parking Spaces), 5.2.4.4 (Layout of car parking areas), 5.4.1 (Residential Density) and 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), as identified above.

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

City of Palmerston (Council) provided a submission objecting to the initial application with concerns relating to the non-compliant density of the proposal and over development of the site consequently leading to a number of other non-compliances. Council also raised specific concerns in

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relation to the non-compliant car parking rate and the probability of this creating on street parking issues in a cul-de-sac location.

A copy of the revised application was issued to Council who did not provide further comment, however it was observed at the DCA meeting that Council were more comfortable with the updated proposal but still noted the non-compliant number of oversized car parks. Council questioned what would trigger the oversized car parks to be converted to a compliant number of regular sized car parks at which the Chair did not believe that a mechanism could be placed on the permit to do so. In response the applicant advised the specialist disability accommodation anecdotally has lower car parking demands than regular dwellings and has improved the non-compliance to car parking and other requirements substantially.

Council also suggested a conditions precedent for a stormwater plan and other servicing and access details, and standard conditions.

Concerns were similarly raised by public submitters of which there were three in relation to the originally exhibited proposal. A copy of the revised application was circulated to public submitter who did not provide further comment. Concerns from public submitters were primarily in regards to the character of future occupants (which the Planning Scheme does not provide consideration for), adverse impacts to amenity from an increase of vehicle movements or traffic, and the potential for the development to generate on-street car parking issues.

In response to both Council and public submitters, the revised proposal reduces the density of the development as originally proposed. The overall scale of the development when considering the footprint and expected occupancy density per dwelling, is well below that of neighbouring dwellings and the broader locality, and is of a lesser scale than would usually be anticipated within Zone LMR (Low to Medium Density Residential). Whilst the proposal provides for 8 oversized car parks, these have the potential to be converted to 11 regular car parking spaces, beyond what is required by the Planning Scheme. It is also considered that the location of the subject site, at the end of a cul-de-sac bounded by an area of native vegetation rather than residential allotments, reduces any perceived negative impacts to the road network and on-street car parking issues.

It should also be noted that dwellings-group as a defined use of the NT Planning Scheme, is one of a number of expected and anticipated uses within Zone LMR (Low to Medium Density Residential).

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.

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The land can be connected to reticulated services and is identified and zoned for LMR (Low-medium Density) purposes and can support the development of a dwellings-group.

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.

The proposal seeks to build on an undeveloped and underutilised lot zoned for low to medium density residential development. The proposed single bedroom dwellings are self-limiting in the number of occupants and the overall scale of the development when considering the footprint and expected occupancy density per dwelling, is well below that of neighbouring dwellings and the broader locality and unlikely to impact adversely on the amenity of the locality.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2023/0415**

SUBDIVISION TO CREATE 125 LOTS IN 4 STAGES (ZUCCOLI VILLAGE PHASES 3.9, 3.10 AND 3.11) INCLUDING STAGE 1 AS BULK EARTHWORKS LOT 16008 (112) RADFORD ROAD, ZUCCOLI, TOWN OF PALMERSTON

APPLICANT

Cunnington Rosse Town Planning and Consulting

Athina Pascoe-Bell and Sarah Henderson are community members of the Development Consent Authority and councillors respectively, for City of Palmerston. City of Palmerston is a submitter to this application under Section 49 of the *Planning Act 1999*.

The Chair noted that section 98A of the *Planning Act 1999*- Independence of Community Members – contemplates that Community Members, while acting independently, may take account of opinion of a local government council in relation to a development application. No parties present raised any concerns with Athina Pascoe-Bell and Sarah Henderson considering the application. Pursuant to section 97 of the *Planning Act 1999*, the Chair determined that Athina Pascoe-Bell and Sarah Henderson interest or relationship was not significant or relevant, and both were permitted to form part of the quorum and participate in determination of this item.

DAS tabled an addendum to the DAS report.

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and Kassie Picken (Urbex) attended, also in attendance were interested parties Andrea Caddy and Josh Larder both from Cunnington Rosse Town Planning and Consulting.

Submitter City of Palmerston represented by Nadine Nilon and Karl Hell attended.

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RESOLVED
04/24

That, the Development Consent Authority vary the requirements of Clauses 4.1.2.1 (SP1*20) and 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR MR and HR) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 16076 (112) Radford Road, Zuccoli, Town of Palmerston for the purpose of subdivision to create 125 lots including 4 stages (Zuccoli Village Phases 3.9, 3.10, 3.11) including stage 1 as bulk earthworks, subject to the following conditions:

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. 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) the full extent of each stage upon completion.
 - (b) corner lots in Phase 3.9 (lots 731, 723, 703, 696, 727, 726) with 1 x primary and 1 x secondary street setbacks.
 - (c) notes on building envelope plans for phases 3.10 and 3.11 to reflect 4.5m building setbacks and 3m ancillary structure setbacks for Villa lots.
2. Prior to the commencement of works, a Type 2 Erosion and Sediment Control Plan (ESCP) must be developed and certified by a Certified Professional in Erosion and Sediment Control (CPESC). The ESCP must be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: das.ntg@nt.gov.au.
3. Prior to the endorsement of plans and prior to the commencement of Stage 1 works, a Part 2 stormwater management plan, detailed drawings relating to stormwater drainage, bulk earthworks plans and public open space masterplan in accordance with the Northern Territory Subdivision and Development Guidelines are to be submitted to the City of Palmerston, to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commenced of Stage 1 works, a stormwater management plan as it relates to discharge to Radford Road/ Crown Land (as applicable) be submitted to and approved by the Land Development Unit, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
5. Prior to the commencement of Stage 1 works, the developer must submit an updated water and sewer master plan and design report to the Water Services, to the satisfaction of the consent authority. The updated master plan must include provision for the water demand for establishment of the drainage / public open space areas and its ongoing water use.

Prior to commencement of each respective stage of Stage 2 – 4 works, engineering design plans and specifications for vehicular access and parking,

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pedestrian/ cycle corridors, crossings and access points, street lighting, proposed and affected roads, stormwater drainage, site earthworks, and streetscaping are to be submitted to the City of Palmerston, to the satisfaction of the consent authority.

GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, electricity and telecommunication networks to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 1, 2, and 3 for further information.
8. Stormwater directed to Radford Road/ Crown Land (as applicable) is to be collected and discharged to the technical standards of and at no cost to Land Development Unit, Department of Infrastructure, Planning and logistics, to the satisfaction of the consent authority.
9. 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.
10. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle corridors and streetscaping are to be to the technical requirements of City of Palmerston to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
11. The owner shall:
 - a) remove disused vehicle and/ or pedestrian crossovers;
 - b) provide footpaths/ cycleways;
 - c) collect stormwater and discharge it to the drainage network; and
 - d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Palmerston, to the satisfaction of the consent authority.
12. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
13. Before the issue of titles, the developer is to provide written confirmation from a suitably qualified person that the earthworks are constructed to an appropriate standard in accordance with the National Construction Code.
14. All works relating to this permit must be undertaken in accordance with the endorsed Erosion and Sediment Control Plan (ESCP) to the satisfaction of the consent authority. Should the endorsed ESCP need to be amended, the

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revised ESCP must be developed and certified by a Certified Professional in Erosion and Sediment Control (CPESC). The revised ESCP must be submitted for acceptance to Development Assessment Services via email: das.ntg@nt.gov.au.

15. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. 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.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
3. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
4. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at www.austieca.com.au and the Land Management Factsheets available at www.nt.gov.au/environment/soil-land-vegetation. For further advice, contact the Development Coordination Branch: (08) 8999 4446.
5. 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

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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

6. A “Permit to Work Within a Road Reserve” may be required from the City of Palmerston before commencement of any work within the road reserve.
7. 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 <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>. 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.
8. 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.
9. 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.
10. 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/>

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and subdivision requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable*, therefore Part 2 of the Scheme including the Palmerston Eastern Suburbs Area Plan, zone purpose, outcomes and requirements of Schedule 4 Specific Use Zone Clause 4.1.2.1 SP1*20 (Specific Use Zone Number 1), and Part 6 requirements Clauses 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR), 6.2.2 (Lots less than 600m² for Dwellings-Single), 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), and 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) are applicable to the application and need to be considered. Subject to clause 1.7(1)(e), the provisions of Parts 1, 2, 3, 5, 6 and 7 apply to development described in Schedule 4.1 (Specific Use Zones) except where they conflict with any conditions specified in that Schedule.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clauses 4.1.2.1 (SP1*20) and 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR MR and HR) of the Northern Territory Planning Scheme 2020.

Part 2 – Strategic Framework – Palmerston Eastern Suburbs Planning Principles and Area Plan

The Planning Principles and Area Plan provides a focused vision for the eastern suburbs of Palmerston, identifying the site for ‘urban residential’ development, and including an area of ‘open space incorporating drainage features, natural habitats and supporting passive recreation’. The Area Plan nominates the closure of Radford Road further south of the subdivision. The proposal is generally consistent with the objectives of the Area Plan including that the design contributes to a compact, accessible and walkable neighbourhood, and provides connections to the existing and future local road network providing ‘an interconnected local street network, providing access, route choice, and designed with priority for safe, efficient, and pleasant walking and cycling’, by providing road connections within and to the existing suburb and limiting the extent of cul-de-sacs. The design allows for a mix of housing types through the proposed lot sizes. Although the principles require the provision of “...*rural residential lots as a further choice and to serve as buffers between urban residential areas and existing rural living or potential biting insect areas*”, the provision of 1,000m² as larger format urban lots along Radford Road is consistent with the existing subdivision to the north, and are the largest lot type within the subdivision.

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Schedule 4 – Zone SP1*20

The land is located in Zone SP1 20 (Specific Use), of which the purpose is to provide *‘for a range of lot sizes that will facilitate a variety of low rise housing options and compatible residential uses in a location supported by appropriate commercial and community facilities and where full reticulated services are available.’* The relevant zone outcomes are:

“9. Building design, site layout and landscaping provide a sympathetic interface to the adjoining public spaces and between neighbours, provides privacy and attractive outdoor spaces.

11. An efficient pattern of land use with all residential lots connected to reticulated services, integrated with existing transport networks, and with reasonable access to open space and community facilities.”

The zone permits a range of housing typologies, from villa lots with a minimum average lot size of 330m², up to estate lots with an average lot size of 1,000m². The subdivision generally accords with the requirements of the specific use zone, including compliance with the overall maximum gross dwelling yield, proportion of dwelling types, and the minimum average lot size required per phase. The building envelope plans demonstrate that each lot can be developed in accordance with the diagrams to this zone. The application includes a variation to sub-clause 15 as detailed below.

The site is not subject to any overlays.

2. The proposal seeks a variation to subclause 15 of Zone SP1*20 where the minimum lot frontages are not achieved for 8 economy traditional, traditional, and premium traditional lots overall, plus all 23 estate lots, with all remaining lots complying. The non-compliances comprise minimum lot frontages not met for lots 786, 789, 769, 752, 787, 788, 753, 812, plus all estate lots. Further, subclause 16 provides that subdivision is to ensure that lots are generally rectangular in shape, unless truncated at road intersections or located around a cul-de-sac. Whilst the majority of lots are rectangular in shape unless truncated by road intersections or responding to the road curve, lot 753 in Phase 3.10 is a battle-axe lot, provided with a short driveway and still achieving a rectangular developable area.

The zone administration provides, the consent authority may consent to a subdivision that is not in accordance with the above subclauses, *“...if it is satisfied that all lots created are consistent with the zone purpose and outcomes.”*

The application was submitted with building envelope plans demonstrating a developable area, despite the lot frontage variations. No variations are proposed to the smallest lot types, and only minor variations to economy traditional lot frontages. Overall the lots provide the ability for dwellings to be developed whilst achieving a sympathetic interface to adjacent lots, and the subdivision is considered to achieve the zone purpose and outcomes.

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Further, two minor omissions were identified on the building envelope plans, which are addressed through the conditions:

- Corner lots in Phase 3.9 (lots 731, 723, 703, 696, 727, 726) were identified with 2 x primary street setbacks rather than 1 x primary and 1 x secondary street setbacks as intended.
 - The notes on building envelope plans for phases 3.10 and 3.11 refer to 6m building setbacks and 4.5m ancillary structure setbacks for Villa lots when 4.5m building setbacks and 3m ancillary structure setbacks are shown in the Diagram to Clause Zone SP1*20 as intended.
3. 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).

The proposal has been found not to be in accordance with Clause 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), because the proposal will result in some sections of the subdivision where the site has areas intended for lots less than 600m² with slopes in excess of 2%.

It is considered that a variation to this clause is appropriate in this instance because:

(a) The proposal remains consistent with the purpose of Clause 6.2.3 being to “... ensure that the ‘subdivision of land provides lots suitable for urban residential purposes that respond appropriately to the physical characteristics of the land and does not detrimentally impact on surrounding land.”

- Some sections of the subdivision have slopes up to 3%, in the southern part of Phase 3.11 where fill of >1.5m is proposed. These areas of fill are adjacent to the stormwater detention basin, the shape of which is already largely constructed, with the proposal modifying the edge of the basin. The design is otherwise consistent with the clause requirements. It is anticipated that the grading of the lots is suit proposed and existing roads, and to match levels of previously delivered phases of the subdivision and the stormwater detention basin. The subdivision as a whole has dealt with similar grade levels, and the outcome likely to be consistent with the broader subdivision.
- Administration subclause 1 allows the consent authority to consent to a development not in accordance with this clause if it is satisfied the subdivision design is consistent with the purpose of the clause. The departure from the requirement is considered acceptable and necessary in order to provide lots that are suitable for urban residential development that responds to the physical characteristics of the land and does not detrimentally impact on surrounding land.

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(b) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 6.2.3 as identified above.

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

City of Palmerston (Council) provided an initial submission on 15 December 2023 and clarified just prior to the DCA meeting that Council do not object to the subdivision provided requested conditions are included to appropriately mitigate identified risks. Comments and risks identified were generally in relation to the timing and outcome of the stormwater management system, risks related to safety and functionality non-conformances, and for details of the development to be finalise prior to construction. Recommended conditions and comments by Council have been included as both conditions precedent and standard conditions.

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

No land capability concerns have been identified as part of the assessment or have been raised by service authorities.

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.

The subdivision will result in a change to the amenity of the local area, as the land is currently undeveloped, however this change accords with the broader strategic planning and developer's master plan, demonstrating it is consistent with the intended future amenity. The overall development includes open space areas, a functional road layout, and residential land uses as intended.

7. Pursuant to section 51(1)(t) of the *Planning Act 1999*, the consent authority must take into consideration other matters it thinks fit.

On 8 February 2024, comments on the application were received from Crown Land Estate and Land Development Unit, Department of Infrastructure Planning and Logistics and were provided as an Addendum to the DCA meeting. The comments provided that the Department is currently in the process of closing the Radford Road reserve south of the southern boundary of Lot 12 (125) Radford Road, and that the land immediately east of Lot 16075 (telecommunications lot) is intended to revert to Crown land under the control of Crown Land Estate. Crown Land Estate do not propose

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to allow a right of way easement through the future closed road corridor to Lot 16075, and temporary infrastructure including the gravel access track is intended to be removed in the near future.

In addition to the above, Crown Land Estate and Land Development Unit informally requested conditions regarding stormwater approval from the subdivision only as it relates to (future) Crown land. The City of Palmerston also request minor changes to C.P 3 for approval for a public open space master plan (rather than landscape concept plans as initially requested) and to C.P 5 such that the developer can commence construction for each respective stage as the design is approved.

New conditions and adjustments to draft conditions were tabled at the meeting for consideration which included minor adjustments to draft conditions precedent 3 and 4 as suggested by City of Palmerston, and the inclusion of a new condition precedent for a stormwater management plan for the discharge of stormwater into Radford Road/ Crown Land east of the subdivision. Two new general conditions were also proposed with the first in relation to the discharge of stormwater water into Radford Road / Crown Land, and the second in relation to right of way access or service corridors across crown land for the purpose of servicing the separate telecommunications lot, which read:

NEW Any proposed right of way access or services corridors through Crown land shall be subject to the prior approval of and at no cost to Crown Land Estate, Department of Infrastructure, Planning and Logistics.

The applicant strongly objected to the inclusion of the second general condition noting the late submission was not in accordance with Section 48A (notice to service authority) and 49 (submissions) of the Act, that prior discussions between the client and developer of the telecommunications site raised no concerns around access, and the inappropriateness of conditioning a right of way access in favour of a separately titled lot not forming part of the subdivision. The applicant and City of Palmerston noted no concerns for the other proposed conditions.

The consent authority determined there was no direct connection (nexus) between the subdivision and the telecommunications site under separate titles and supported the applicants request to not include a condition for a right of way access for the benefit of the telecommunications site.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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ITEM 3
PA2023/0380

DWELLING-SINGLE FOR USE AS DWELLING-COMMUNITY RESIDENCE
LOT 15963 (30) FOLLINGTON STREET, ZUCCOLI, TOWN OF PALMERSTON
Abode New Homes

APPLICANT

Applicant: Justin Gill (Abode New Homes) attended.

RESOLVED
05/24

That, the Development Consent Authority pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 15963 (30) Follington Street, Zuccoli, Town of Palmerston for the purpose of dwelling single for use as dwelling-community residence, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Palmerston stormwater drainage system shall be submitted to and approved by the City of Palmerston, to the satisfaction of the consent authority.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notation 1 for further information.
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. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Palmerston, to the satisfaction of the consent authority.
6. The owner shall
 - (a) remove disused vehicle and/ or pedestrian crossovers; and
 - (b) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Palmerston, to the satisfaction of the consent authority.
7. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Palmerston to the satisfaction of the consent authority.

NOTES

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

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

2. 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.
3. The applicant is advised to engage a Northern Territory registered building certifier to ensure compliance with the requirements as specified in the Building Act 1993 and the National Construction Code (NCC). The NCC categorizes buildings and structures based on their intended purpose, design, or adaptation, and sets minimum performance standards for various elements, including fire protection and safety requirements. For further information please refer to Building Note 111: Classification of buildings containing vulnerable occupants, available: <https://nt.gov.au/property/building/building-notes/building-notes>

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and dwelling-single for use as dwelling-community residence requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 1.8(1)(b)(i), therefore the zone purpose and outcomes of Zone SP1*20, and Clauses 5.2.1 General Height Control, 5.2.4 Vehicle Parking, 5.2.6 Landscaping, 5.4.1 Residential Density, 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures, 5.4.6 Private Open Space and 5.4.14 Dwelling-Community Residence, need to be considered.

Clause 1.7(1)(d) provides “...the provisions of parts 1, 2, 3, 5, 6 and 7 apply to development described in Schedule 4.1 (Specific Use Zones) except where they conflict with any conditions specified in that Schedule.” The assessment found compliance with the requirements of Zone SP1*20 plus the relevant clauses under Part 5 of the Planning Scheme 2020 with the exception to sub-clause 21(a).

Sub-clause 21(a) of Zone SP1*20 requires that a *dwelling-community residence may only be developed on a dwelling-single lot that has an area greater than 500m²*. The proposed lot has an area of 450m² and therefore does not comply.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), sub-clause 5, of the Northern Territory Planning Scheme 2020, the consent authority may consent to a proposed development which is not in

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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).

The proposal has been found not to be in accordance with sub-clause 21(a), because the proposed lot size is 450m² where the required minimum is 500m².

It is considered that a variation to this clause is appropriate in this instance because:

- (a) Sub-clause 6 allows the consent authority to “*consent to a dwelling-independent or dwelling-community residence that is not in accordance with sub-clauses 20 and 21 respectively if it is satisfied the proposed use or development is consistent with the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on surrounding amenity.*”

- The proposed development is consistent with the purpose of Zone SP1*20 to “provide for a range of lot sizes that will facilitate a variety of low rise housing options and compatible residential uses in a location supported by appropriate commercial and community facilities and where full reticulated services are available” as it is a low-rise one story house that provides variety to the housing options in the Zuccoli area. The lot is fully reticulated and located short a distance from commercial and community facilities such as shops, schools, transport networks and parks.
- The proposal is compatible with the surrounding locality, is a typical size to surrounding households, and indistinguishable to adjacent residences. The proposal is likely to be established in a way that does not impact on the amenity of the area, and accords with the relevant zone purposes and outcomes.

- (b) The considerations listed under Clause 1.10(3) have been given regard to and it has been found that the proposal complies with all relevant requirements of the Northern Territory Planning Scheme 2020, except for sub-clause 21(a) of Zone SP1*20 as identified above.

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

The lot was recently created as part of Zuccoli Village Phase 3.8 and no concerns have been identified with respect to the capability of the land in supporting the proposed development. Additionally, the Department of

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Environment, Parks and Water Security did not identify or raise any issues of concern in relation to land capability.

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

The proposal is compatible with the surrounding locality, being of similar size and scale to surrounding households. The dwelling is likely to be indistinguishable from the adjacent residences and is not expected to unduly impact on the amenity of the area.

5. Pursuant to section 51(1)(t) of the *Planning Act 1999*, the consent authority must take into consideration other matters it thinks fit.

The Northern Territory Fire and Rescue Service provided comment on the proposal suggesting that the proposed 'dwelling-community residence' was better defined as a 'residential care facility' under the definitions of the Planning Scheme. The reasons provided were that the design of the building was clearly for specialist disability accommodation and potential occupants may not be able to live independently depending on their support needs. It was also suggested that aligning with the 'residential care facility' definition would clearly define the compliance requirements of the building under the National Construction Code regarding building classification and occupant safety.

The Authority considered that the proposed development was in fact a 'dwelling', and was of residential character, designed to accommodate persons who are not necessarily related, with care provided, and that operates as a single household and therefore the defined use of 'dwelling-community residence' was in fact correct. It is understood that the land use definitions in the Planning Scheme may not always neatly align with classifications under the National Construction Code and any concerns with achieving appropriate building certification, and fire and safety requirements, is a relevant matter for consideration by the building certifier under the Building Act 1993.

In response to concerns raised by the Fire and Rescue Service, a note is to be included on the development permit as advice to the developer or building certifier regarding potential building certification issues.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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ITEM 4
PA2023/0381

DWELLING-SINGLE FOR USE AS DWELLING-COMMUNITY RESIDENCE

APPLICANT

LOT 16005 (53) FOLLINGTON STREET, ZUCCOLI, TOWN OF PALMERSTON

Abode New Homes

Applicant: Justin Gill (Abode New Homes) attended.

RESOLVED
06/24

That, the Development Consent Authority pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 16005 (53) Follington Street, Zuccoli, Town of Palmerston for the purpose of dwelling single for use as dwelling-community residence, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Palmerston stormwater drainage system shall be submitted to and approved by the City of Palmerston, to the satisfaction of the consent authority.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notation 1 for further information.
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. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Palmerston, to the satisfaction of the consent authority.
6. The owner shall
 - (a) remove disused vehicle and/ or pedestrian crossovers; and
 - (b) undertake reinstatement works;
all to the technical requirements of and at no cost to the City of Palmerston, to the satisfaction of the consent authority.
7. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Palmerston to the satisfaction of the consent authority.

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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. 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.
3. The applicant is advised to engage a Northern Territory registered building certifier to ensure compliance with the requirements as specified in the *Building Act 1993* and the National Construction Code (NCC). The NCC categorizes buildings and structures based on their intended purpose, design, or adaptation, and sets minimum performance standards for various elements, including fire protection and safety requirements. For further information please refer to Building Note 111: Classification of buildings containing vulnerable occupants, available: <https://nt.gov.au/property/building/building-notes/building-notes>

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and dwelling-single for use as dwelling-community residence requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 1.8(1)(b)(i), therefore the zone purpose and outcomes of Zone SP1*20, and Clauses 5.2.1 General Height Control, 5.2.4 Vehicle Parking, 5.2.6 Landscaping, 5.4.1 Residential Density, 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures, 5.4.6 Private Open Space and 5.4.14 Dwelling-Community Residence, need to be considered.

Clause 1.7(1)(d) provides “...the provisions of parts 1, 2, 3, 5, 6 and 7 apply to development described in Schedule 4.1 (Specific Use Zones) except where they conflict with any conditions specified in that Schedule.” The assessment found compliance with the requirements of Zone SP1*20 plus the relevant clauses under Part 5 of the Planning Scheme 2020 with the exception to sub-clause 21(a).

Sub-clause 21(a) of Zone SP1*20 requires that a dwelling-community residence may only be developed on a dwelling-single lot that has an area greater than 500m². The proposed lot has an area of 477m² and therefore does not comply.

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

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

The proposal has been found not to be in accordance with sub-clause 21(a), because the proposed lot size is 477m² where the required minimum is 500m².

It is considered that a variation to this clause is appropriate in this instance because:

- (a) Sub-clause 6 allows the consent authority to consent to a dwelling-independent or dwelling-community residence that is not in accordance with sub-clauses 20 and 21 respectively if it is satisfied the proposed use or development is consistent with the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on surrounding amenity.
 - The proposed development is consistent with the purpose of Zone SP1*20 to “provide for a range of lot sizes that will facilitate a variety of low rise housing options and compatible residential uses in a location supported by appropriate commercial and community facilities and where full reticulated services are available” as it is a low-rise one story house that provides variety to the housing options in the Zuccoli area. The lot is fully reticulated and located short a distance from commercial and community facilities such as shops, schools, transport networks and parks.
 - The proposal is compatible with the surrounding locality, is a typical size to surrounding households, and indistinguishable to adjacent residences. The proposal is likely to be established in a way that does not impact on the amenity of the area, and accords with the relevant zone purposes and outcomes.
- (b) The considerations listed under Clause 1.10(3) have been given regard to and it has been found that the proposal complies with all relevant requirements of the Northern Territory Planning Scheme 2020, except for sub-clause 21(a) of Zone SP1*20 as identified above.

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

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The lot was recently created as part of Zuccoli Village Phase 3.8 and no concerns have been identified with respect to the capability of the land in supporting the proposed development. Additionally, the Department of Environment, Parks and Water Security did not identify or raise any issues of concern in relation to land capability.

4. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated
The proposal is compatible with the surrounding locality, being of similar size and scale to surrounding households. The dwelling is likely to be indistinguishable from the adjacent residences and is not expected to unduly impact on the amenity of the area.
5. Pursuant to section 51(1)(t) of the *Planning Act 1999*, the consent authority must take into consideration other matters it thinks fit.

The Northern Territory Fire and Rescue Service provided comment on the proposal suggesting that the proposed 'dwelling-community residence' was better defined as a 'residential care facility' under the definitions of the Planning Scheme and should be instead considered and assessed as this. The reasons provided were that the design of the building was clearly for specialist disability accommodation and potential occupants may not be able to live independently depending on their support needs. It was also suggested that aligning with the 'residential care facility' definition would clearly define the compliance requirements of the building under the National Construction Code regarding building classification and occupant safety.

The Authority considered that the proposed development was in fact a 'dwelling', and was of residential character, designed to accommodate persons who are not necessarily related, with care provided, and that operates as a single household and therefore the defined use of 'dwelling-community residence' was in fact correct. It is understood that the land use definitions in the Planning Scheme may not always neatly align with classifications under the National Construction Code and any concerns with achieving appropriate building certification, and fire and safety requirements, is a relevant matter for consideration by the building certifier under the Building Act 1993.

In response to concerns raised by the Fire and Rescue Service, a note is to be included on the development permit as advice to the developer or building certifier regarding potential building certification issues.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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ITEM 5
PA2023/0323

**SHOWROOM SALES AND WAREHOUSE IN 2 X SINGLE STOREY BUILDINGS
LOTS 15275 & 15276 (38 & 42) GEORGINA CRESCENT, YARRAWONGA,
TOWN OF PALMERSTON**

APPLICANT MasterPlan NT

Applicant George Dakis (MasterPlan NT), Will Finocchiaro and Ben Finocchiaro attended.

RESOLVED
07/24

That, the Development Consent Authority vary the requirements of Clause 5.2.4.4 (Layout of Car Parking Spaces) 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 15275 (38) and Lot 15276 (42) Georgina Crescent, Yarrowonga, Town of Palmerston for the purpose of showroom sales and warehouse in 2 x single storey buildings in two stages, subject to the following conditions:

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. 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) A right of way easement over Lot 15275 and in favour of Lot 15276 for the purpose of providing access to the loading bays and bin storage areas via the service lane, to the satisfaction of the consent authority.
2. Prior to the endorsement of plans, an amended Traffic Impact Report must be provided, to the requirements of Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
3. Prior to the endorsement of plans, swept path diagrams for the maximum sized vehicles intended to access the lot are to be provided, to the requirements of Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
4. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Palmerston stormwater drainage system shall be submitted to and approved by the City of Palmerston, to the satisfaction of the consent authority.
5. Prior to the commencement of works, a waste management plan addressing the City of Palmerston's Waste Management Guidelines must be prepared, to the requirements of the City of Palmerston, to the satisfaction of the consent authority.

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GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 1 for further information.
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. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
10. Before the use or occupation of the development starts, the right of way easement shall be lodged with the Registrar General. The right of way easement shall be over Lot 15275 and in favour of Lot 15276 for the purpose of providing access to the loading bays and bin storage areas via the service lane, to the satisfaction of the consent authority.
11. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Palmerston City Council and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
12. Storage for waste disposal bins is to be provided to the requirements of the City of Palmerston to the satisfaction of the consent authority.
13. 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 the City of Palmerston, to the satisfaction of the consent authority.
14. Before the 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.
15. 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.
16. Before the 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;

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- c) surfaced with an all-weather-seal coat;
 - d) drained;
 - e) line marked to indicate each car space and all access lanes; and
 - f) clearly marked to show the direction of traffic along access lanes and driveways;
- to the satisfaction of the consent authority. Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

17. 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 customers.
18. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Palmerston and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.
19. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bays and must not disrupt the circulation and parking of vehicles on the land.
20. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Palmerston and the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.
21. The owner shall:
 - a) remove disused vehicle and/ or pedestrian crossovers;
 - b) provide footpaths/ cycleways;
 - c) collect stormwater and discharge it to the drainage network; and
 - d) undertake reinstatement works;
all to the technical requirements of and at no cost to the City of Palmerston and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
22. All waste material not required for further on-site processing must be regularly removed from the site to an approved facility. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the consent authority.
23. No goods are to be stored or left exposed outside the building(s) so as to be visible from any public street.

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

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determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. A "Permit to Work Within a Road Reserve" may be required from the City of Palmerston and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve.
3. 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 <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.
4. 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.
5. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
6. Any floodlighting or security lighting provided on site is to be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Roystonea Avenue and Temple Terrace traffic.
7. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
 - a) so as not to create sun or headlight reflection to motorists; and
 - b) be located entirely (including foundations and aerially) within the subject lot.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and a showroom sales and warehouse requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8 (1)

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(b) (ii) (2), therefore the zone purpose and outcomes of Clause 4.12- Service Commercial, and Clauses 5.2.1 (General Height Control), 5.2.4.1 (Car Parking Spaces), 5.2.4.4. (Layout of Car Parking Areas), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.2 (Commercial Plot Ratio), 5.5.3 (General Building and Site Design) and 5.5.4 (Expansion of Existing Development in Zones CB, C, SC and TC) applicable to application, need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.2.4.4 (Layout of Car Parking Areas).

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).

The proposal has been found not to be in accordance with Clause 5.2.4.4 (Layout of Car Parking Areas), because the proposal will result in a landscape buffer between the car parking areas and Georgina Crescent and Temple Terrace that does not achieve a consistent minimum depth of 3.0m.

It is considered that a variation to this clause is appropriate in this instance because:

- a) The proposal is consistent with the purpose of Clause 5.2.4.4 (Layout of Car Parking Areas) which is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. The car parking design is functional and enables the safe and accessible manoeuvrability of vehicles from the site, to the site and within the site.

Administratively, the consent authority may consent to a development with a car parking area that does not meet the landscaping requirement if it is satisfied that the non-compliance will not unreasonably impact on the amenity of the surrounding locality.

The surrounding locality is characterised by a mix of community purpose buildings, a transport terminal, showroom sales, warehouses and offices. The streetscape includes large verges that are landscaped and well maintained. These large street verges provide a reasonable visual barrier between the road network and onsite development.

The reduced depth of the landscape buffer is not anticipated to have an adverse impact on the amenity of the surrounding locality. The northern end of the landscape buffer adjoining Temple Terrace has a depth of 5.6 metres which provides some compensation for the reduced depth on the southern end. Likewise, the landscape buffer to Georgina Crescent has a

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maximum depth of 5.0m and includes mature native trees that will have a positive contribution to the visual amenity of the locality and provide additional shade to the car parking area.

- b) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 5.2.4.4 (Layout of Car Parking Areas), as identified above.
3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The site is reasonably flat in topography and has access to reticulated power, sewerage and water. For these reasons, the land is capable of facilitating the proposed development.

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

The buildings are positioned on a prominent corner of two arterial roads that connect Palmerston's town centre to the wider locality. The development will activate the site and provide additional passive surveillance to the surrounding street network. Although the buildings are large in scale, the majority of street facing facades are articulated with verandahs, awnings and glass window panels. This articulation increases visual interest and contributes to the visual amenity of the site. Landscaping around site boundaries and within the car parking areas also positively contributes to the visual amenity of the site.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

20 February 2024