



# DEVELOPMENT CONSENT AUTHORITY

## DARWIN DIVISION

### PART 1 - MINUTES (ITEMS 1-6)

**MEETING NO. 436 - FRIDAY 7 FEBRUARY 2025**

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

**MEMBERS PRESENT:** Suzanne Philip (Chair), Mark Blackburn, Monica Baumgartner, Peter Pangquee and Jimmy Bouhoris

**APOLOGIES:** Marion Guppy and Mick Palmer

**LEAVE OF ABSENCE:** None

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Kaleb Thomas, Madison Harvey and Lingyi Kong (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

Meeting opened at 10.30 am and closed at 2.45 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**                    **CONCURRENT APPLICATION**  
**PA2024/0248**       **PART LOT - REZONE FROM SC (SERVICE COMMERCIAL) TO MR (MEDIUM DENSITY RESIDENTIAL); AND CHILDCARE CENTRE LOT 5021 (2) RAILWAY STREET, PARAP, TOWN OF DARWIN**  
**APPLICANT**            One Planning Consult

Applicant: Israel-Tshepo Kgosiemang (One Planning Consult) attended.

Submitter: Duncan Price sent his apologies

**RESOLVED**            That, the Development Consent Authority pursuant to section 30P(1)(a) of the  
**05/25**                    *Planning Act 1999* decide that, if the Minister were to approve the amendment proposal to rezone part of Lot 5021 Town of Darwin (2 Railway Street, Parap), that it would be likely to determine to consent to the development under section 30W(1)(a) conditionally for the purpose of child care centre in a single storey building, subject to the following conditions:

**CONDITION PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans 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 minimum 2 metre setback from the Stuart Highway lot boundary to the car parking area, to achieve better compliance with sub-clause 6(a) of clause 5.2.4.4 (Layout of car parking areas) of the Northern Territory Planning Scheme 2020.
  - b. Show location, height and design of fencing along the Stuart Highway frontage, in accordance with the Transport and Civil Services Division (TCSD) of the Department of Logistics and Infrastructure (DLI) standards and requirements, to deter unauthorised vehicular and/or pedestrian movement. Any gates provided are to be fixed to open inwards only.
  
2. Prior to the endorsement of plans and commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions, and be generally in accordance with the site plan dated July 2024 prepared by Insite Architects, except that the plan must:
  - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed;

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- b. Details of surface finishes of pathways and driveways;
- c. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
- d. Landscaping and planting within all open areas of the site;
- e. Four canopy trees (minimum 2 metres tall when planted) in the setback to Railway Street; and
- f. Provision of an in-ground irrigation system to all landscaped areas (including as a 'general note').

All species selected must be to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system must be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan must include details of site levels and Council's stormwater drain connection point/s. The plan must also indicate how stormwater will be collected on the site and connected underground to Council's system.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
5. Prior to the endorsement of plans and commencement of site works (including site preparation), a revised Traffic Impact Assessment in accordance with the Austroads Guide to Traffic Management Part 12: Traffic Impacts of Development is required for the proposed development. The report must detail the development's traffic generation, trip distribution, traffic operation impact, the nature and timing of impacts, and recommended measures required to accommodate and / or mitigate the traffic impacts of the development, including construction traffic on the Stuart Highway / Ross Smith Avenue and Stuart Highway / Woolner Road intersections. All road sections and/or intersections where traffic generated by the development increases the existing traffic, existing proportion of heavy vehicle traffic or equivalent standard axles (ESAs) by 5% or more must be assessed. The impacts of the development on public transport facilities, pedestrian and cycle facilities shall also be assessed. Any intersection and / or road upgrade works required to accommodate the proposed development and within NTG controlled road reserves shall be carried out by the developer, at the developer's cost, to the standards and requirements of the TCSD of the DLI, to the satisfaction of the consent authority.
6. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of City of Darwin, to the satisfaction of the consent authority.

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7. Prior to the commencement of works (including site preparation), a waste management plan addressing the City of Darwin's Waste Management Guidelines must be prepared, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
8. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.

### **GENERAL CONDITIONS**

9. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
10. The use and development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
11. 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 2, 3 and 4 for further information.
12. 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.
13. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
14. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
15. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report, to the satisfaction of the consent authority.
16. Storage for waste disposal bins is to be provided to the requirements of City of Darwin, to the satisfaction of the consent authority. This area must be graded, drained and screened from public view.

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17. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the requirements and at no cost to City of Darwin, to the satisfaction of the consent authority.
18. All works recommended by the traffic impact assessment are to be completed to the requirements of TCSD, DLI, to the satisfaction of the consent authority.
19. 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;
  - e. Line marked to indicate each car space and all access lanes;
  - 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.
20. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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 City of Darwin, to the satisfaction of the consent authority.

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26. The Stuart Highway Road frontage is to be appropriately fenced in accordance with the TCSD of the DLI, standards and requirements, to the satisfaction to the consent authority.
27. Access shall not be permitted to the subject lot from the Stuart Highway road reserve. All access arrangements shall be via the internal local road network to the standards and approval of the City of Darwin.

### NOTES

1. The Transport and Civil Services Division, of the Department of Logistics and Infrastructure advise that:
  - a. All proposed work (including the provision or connection of services) within, or impacting upon the Stuart Highway road reserve shall be in accordance with the standards and specifications of TCSD, DLI. Design documents must be submitted to the TCSD for road agency approval and no works are to commence prior to approval.
  - b. A development permit issued under the Planning Act 1999 is not an approval for access onto a Territory road. Approval for access to be taken from, or constructed within the NTG controlled road reserve rests solely with the TCSD, DLI as the approving road authority.
  - c. The developer, and its contractor or service provider is required to Obtain a 'Permit to Work within the NTG Road Reserves', prior to the commencement of any works within the Stuart Highway road reserve.
  - d. Construction Traffic Management Plan (detailing all appropriate site management measures, including construction access, proposed haulage routes, vehicle types, protection of existing assets, protection of public access and a risk assessment) and/or an Operational Traffic Management Plan (detailing access routes, vehicle types and other relevant matters, including a risk assessment) shall be submitted to the TCSD, DLI for consideration prior to commencement of any works.
  - e. Access shall not be permitted to the subject lot from the Stuart Highway road reserve. All access arrangements shall be via the internal local road network to the standards and approval of the City of Darwin.
  - f. No temporary access for construction purposes shall be permitted from the Stuart Highway road reserve. Construction and delivery vehicles shall not be parked on the Stuart Highway road reserve.
  - g. The loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network. Where tracked material on the road pavement becomes a potential safety issue, the developer will be obliged to sweep and clean material off the road.
  - h. Surface stormwater run-off from the development site onto the Stuart Highway road reserve is not permitted. The developer shall ensure that the stormwater run-off from the development site is collected to prevent uncontrolled discharge to adjoining lands through the provision of kerbing, transverse grated drains and inlet pits, or alternatively the site is to be graded to collect the run-off internally.

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Accordingly, stormwater shall be wholly contained within the site and discharged into the local underground stormwater system to the standards and approval of the TCSD (where it impacts on the NTG controlled road reserves), the Crown Land Management Division (where it impacts on Crown land or a drainage easement in favour of the Territory) and/or the City of Darwin.

- i. Discharge of untreated waters into the stormwater drainage system is not permitted. Any contaminated stormwater shall be isolated, contained and treated prior to discharge off-site to the standards and requirements of the Department of the Environment Division, of the Department of Lands, Planning and Environment and/or the Environment Protection Authority.
- j. All landscaping and setback requirements under the Northern Territory Planning Scheme shall be contained within the Lot boundaries. Any landscaping proposed by the developer additional to planning requirements and within the Stuart Highway road reserve shall be to the standards and approval of TCSD, DLI.
- k. Any proposals for the upgrading/ resurfacing of the Stuart Highway footpath/ verge fronting the development shall require the approval of the TCSD, DLI.
- l. The developer shall consider the Department's policy 'Road Traffic Noise on NTG controlled roads' and have carried out, in accordance with AS3671 Road Traffic Noise Intrusion - Building Siting and Construction an assessment by a suitably qualified person of the development's present and predicted future exposure to road traffic noise levels. All noise attenuation works deemed necessary, i.e. building materials and design, lot layout or noise barriers, shall be wholly contained within the subject lot (including foundations) and carried out and maintained at full cost to the developer.
- m. 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 of variable message). The sign shall be positioned:
  - i. so as not to create sun or headlight reflection to motorists; and
  - ii. be located entirely (including foundations and aerially) within the subject Lot.Advertising signage including temporary or permanent, e.g. 'A' frame, vehicle or trailer mounted, etc. shall not be erected or located within the Stuart Highway road reserve.
- n. 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 the Stuart Highway traffic.
- o. Upon completion of any works within or impacting upon the Stuart Highway road reserve, the road reserve shall be rehabilitated to the standards and requirements of TCSD, DLI.
- p. The clearing and future use of the land, including any noise attenuation measures, shall not be detrimental to the drainage of the Stuart Highway road reserve through the blocking of offlet drains, natural drainage channels or overland flow. Alternative proposals to cater for the above may be considered by this Department.

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2. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto: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](http://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. The City of Darwin advise that:
  - a. The proposal includes works within the City of Darwin road reserve. All works must comply with City of Darwin policies and guidelines and are subject to a separate assessment and approval process by City of Darwin. City of Darwin requires that the applicant obtain all necessary approvals before commencing any construction in the road reserve.
  - b. The proposed street tree(s) to City of Darwin's road reserve fronting the development shall be carried out at full cost to the developer.
  - c. As street trees will become an asset of City of Darwin, the developer should provide City of Darwin specification for the purchasing of quality tree stock prior to construction.
  - d. Prior to the establishment of street trees within the road reserve, contact shall be made with City of Darwin's Parks and Reserves to ensure appropriate species and planting locations are defined.
  - e. Any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin's Policy 6310.100.E.R – Outdoor Advertising Signs Code
  - f. Any damaged or removed infrastructure located in, on or over the road reserve (inclusive of preexisting street trees), is to be repaired or replaced at either the developers or landowners cost, to the satisfaction of City of Darwin.
  - g. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.



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- h. All street trees shall be protected at all times during construction. Any tree on a footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of the General Manager, Infrastructure of the City of Darwin. A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development, in accordance with Australian Standards – AS 4970-2009 'Protection of Trees on Development Sites'. Copies of AS 4970-2009 'Protection of Trees on Development Sites' can be obtained from the Australian Standards website.
6. 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.
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 8936 4070 to determine if the proposed works are subject to the Act.

### 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.

#### Northern Territory Planning Scheme 2020 (NTPS 2020)

As the application is *Impact Assessable* the exercise of discretion by the Authority that applies is Clause 1.10(4) (Exercise of Discretion by the Consent Authority) of the NTPS2020. Clause 1.10(4) specifies that *in considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:*

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

An assessment of the relevant parts of the NTPS 2020 is as follows:

#### **Part 2 – Strategic Framework**

Clause 2.1 (Purpose of Strategic Framework) requires that interpretation of the NTPS 2020 and determinations of a consent authority have regard to the strategic framework, which provides relevant land use plans and policies

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to ensure that a use or development or proposed use or development is consistent with the objectives of the NTPS 2020.

This clause establishes the strategic framework principles that guide land use and development in the Northern Territory; by

- a) *promoting the Objectives of the Planning Act 1999 through the establishment of strategic policy and strategic land use plans to guide development;*
- b) *establishing a strategic direction for the Northern Territory and its regions that facilitates long term management of development to achieve coordinated and efficient planning outcomes;*
- c) *providing guidance on strategic planning priorities and intended outcomes of future development;*
- d) *balancing the following considerations to inform strategic planning and decision making for development:*
  - i. *the sustainable use of resources and the protection of the natural environment and ecological processes;*
  - ii. *the integration of land use planning with transport and physical infrastructure planning to provide for the equitable, accessible, logical and efficient provision of such services;*
  - iii. *the facilitation of industrial, business and other employment and wealth generating activities to promote, support and engender economic development;*
  - iv. *the promotion of diverse housing options and the integration of planning for community facilities and services to foster a more connected, resilient and supported society;*
  - v. *the recognition of the unique characteristics, challenges and aspirations in different areas and communities within the scheme area; and*
  - vi. *the protection of places and buildings, which are of heritage or cultural value.*

Clause 2.2 (Components and Operation of the Strategic Framework) specifies that the strategic framework guides the interpretation of all parts of the NTPS 2020.

Clauses 2.3 and Clause 2.4 detail the strategic policies and land use policies that the consent authority must consider when making a decision.

In the case of 2 Railway Street, Parap, the following land use policy applies.

### Darwin Inner Suburbs Area Plan June 2016 (DISAP)

The DISAP provides the most detailed level of guidance and therefore prevails over higher-order Land Use Plans and Strategic Planning Policies. The area plan considers higher level land use policy, such as the Darwin Regional Land Use Plan and the Compact Urban Growth Policy.

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The site is identified in the DISAP as *residential - medium density*, as a *potential area for change* and as located in the Parap Village and Woolner Activity Centre.

The Authority notes the assessment completed by Development Assessment Services (DAS) which found that the nomination of the site for *residential - medium density* does not preclude the use and development of a child care centre, as evidenced by the outcomes of the proposed future zoning of MR (Medium Density Residential) which acknowledges the contribution of non-residential activities such as child care centres that:

- support the needs of the immediate residential community;
- are of a scale and intensity compatible with the residential character and amenity of the area;
- wherever possible, are co-located with other non-residential activities in the locality;
- avoid adverse impacts on the surrounding road network; and
- are managed to minimise unreasonable impacts on the amenity of surrounding residents.

### Part 3 – Overlays

There are no overlays applicable to the site.

### Part 4 – Zones

The proposed development is not medium density residential, however, Zone MR does not preclude the use and development of a child care centre and this is evidenced by sub-clause 4 which acknowledges the contribution of non-residential activities such as child care centres.

The Authority notes the assessment of DAS which found that the proposed development complies with sub-clause 4 of Zone MR, for the following reasons:

- The proposed child care centre will serve local community needs in an existing residential area and identified activity centre with convenient access to existing and emerging residences, educational facilities and employment areas;
- The design, height, setbacks and appearance of the proposed development is compatible with the character of the area, will sit comfortably within the streetscape and enhance the site's relationship with the public realm and effectively integrate into the character of Parap;
- The proposal is co-located with other non-residential uses in the locality, with an existing church located directly west of the site and the government printing office directly to the east;
- Sufficient on-site car parking, safe access and appropriately designed accessways are provided in accordance with the requirements of Clause 5.2.4 Car Parking Spaces;
- The proposed development will minimise unreasonable impacts on the amenity of surrounding residents noting:

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- The single storey scale of the development is consistent with the character of the surrounding area. The building will be well-articulated through building expression as well as a mix of building materials including cement look cladding, timber look cladding, pattern metal perforated screen and skillion colorbond roof;
- Given there are no residential properties directly adjoining, there are limited overlooking and noise impacts.

In addition, the site will be connected to reticulated services, integrates with the existing road network and has convenient access to existing open space, community and educational facilities in accordance with sub-clause 6 of Zone MR.

As such, if the amendment proposal was to be approved the development proposal would be consistent with the purpose of Zone MR.

### Part 5 – Development Requirements

The Authority notes the assessment of DAS which assessed the development proposal against the requirements of the NTPS 2020, as if the site were in Zone MR, and found that a variation is required to Clause 5.2.4.4 (Layout of car parking areas) and Clause 5.2.6.1 (Landscaping in Zones other than Zone CB).

#### Clause 5.2.4.4 (Layout of car parking areas)

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

Sub-clause 6 of this clause requires a car parking area to be setback 3 metre for any road boundary and to provide landscaping within the setback, the driveway width to be a minimum of 6 metres and for the car parking spaces to be dimensions of 2.5 x 5.5m.

The proposed car parking area is setback approximately 80mm from the lot boundary abutting Stuart Highway, the minimum driveway width is 5.8m and the car parking spaces are annotated as 2.5m by 5.4m.

Mr Kgosiemang advised that full compliance with the 3m setback requirement to Stuart Highway of sub-clause 6 cannot be achieved due to the angle of the boundary and the proposed siting on the development with the play space to front Railway Street.

*Administratively, the 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 to Clause 5.2.4.4 (Layout of car parking areas) in relation to the minimum driveway width and the required car parking dimensions could be supported as the application is accompanied by a traffic impact assessment

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which confirms that the 'proposed car parking space dimensions and aisle width satisfy requirements in AS 2890.1:2004 *Off-street car parking*'.

The Authority notes the DAS assessment which considers that the proposed development could be re-configured to achievement compliance with the sub-clause 6 setback requirements of Clause 5.2.4.4 (Layout of car parking areas) without compromising the extent of landscaping and the proposed built form.

Mr Kgosiemang advised that increasing the car parking area setback by a further 1.5m, to a minimum 2m setback from Stuart Highway, is possible without reducing the outdoor play space. Mr Kgosiemang acknowledged that this would not achieve full compliance with the sub-clause 6 requirements, however, is appropriate as the proposed boundary fencing which will screen the car parking area from the streetscape.

The Authority notes the justification of Mr Kgosiemang, and will include a condition precedent on any future development permit requiring a minimum 2m setback from Stuart Highway to achieve better compliance with sub-clause 6 of clause 5.2.4.4, and allow for the planting of vegetation along the boundary to contribute to the amenity of the Stuart Highway streetscape.

### Clause 5.2.6.1 (Landscaping in Zones other than Zone CB)

The purpose of Clause 5.2.6.1 is to *ensure appropriate landscaping that is attractive, water efficient and contributes to a safe environment, is provided to development to enhance the streetscape and overall amenity of the locality*. Sub-clause 7 of this clause requires side and rear setbacks to include a minimum 2 metre landscaped setback.

The proposed development is setback 850mm to the eastern boundary, approximately 80mm to the southern boundary and setback zero to 3.1 metres to the future western boundary.

*Administratively, 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 notes the DAS assessment, and supports a variation to Clause 5.2.6.1 (Landscaping in Zones other than Zone CB) for the following reasons:

- The site's context is characterised by a range of landscaping outcomes, with the residential properties providing landscaping along all boundaries and the existing-residential uses providing landscaping predominately to the Railway Street streetscape.
- The proposed development contributes to the existing amenity of the Railway Street streetscape through the provision of large setbacks and areas of landscaping in the setback to Railway Street. Limited landscaping is proposed along the side boundaries and to the Stuart

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Highway boundary and this is reflective of the existing character and will not impact of the amenity of the adjoining properties, given they are non-residential uses.

A condition precedent will applied to any future development permit requiring that a landscape plan to be prepared and a general condition requiring the landscaping plan to be maintained on an ongoing basis. This ensures that the proposal development provides adequate landscaping to contribute to the amenity of the streetscape.

### Clause 5.5.7 Child Care Centre

The purpose of Clause 5.5.7 is to ensure that a child care centre:

- a) *is developed in a location that provides convenient vehicle access and does not interfere with the safe or efficient operation of the local road, cycle and footpath network;*
- b) *incorporates appropriate site layout, building and landscape design to ensure that there is no unreasonable loss of amenity for adjoining and nearby properties.*

Sub-clause 3 specifies to *provide landscaping and any necessary screening.*

The architectural drawings provided with the application show indicative landscaping however, a landscape plan was not provided as part of the application material.

To ensure on-going compliance and maintenance of the proposed landscaping, a condition precedent has been applied to any future approval to require a landscape plan to be prepared and a general condition requiring the landscaping plan to be maintained on an ongoing basis.

The Authority further questioned Mr Kgosiemang to understand what fencing measures were proposed to ensure safety of children with reference to the site's location along Stuart Highway. Mr Kgosiemang advised that the child care centre's play space will be fully enclosed and the car park area will also be fenced.

2. Pursuant to sections 30P(f) of the *Planning Act 1999*, the consent authority must take into account any information received as a result of consultations carried out, submissions received, or evidence given at a hearing.

One public submission was received during the exhibition period. The submitter indicated their strong opposition to any future access from Stuart Highway to Railway Street, however, did not raise any other matters or concerns, and supported the proposal as detailed in the application.

The Authority noted the submitter's concerns and highlighted that the proposed development does not propose access to or from the Stuart Highway.

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Furthermore, at the request of the Transport and Civil Services Division of the Department of Logistics and Infrastructure, a condition will be applied to any future approval stating that access shall not be permitted to the subject lot from the Stuart Highway road reserve. Noting this on any permit, in line with the service authority's comments, would address the submitter's concern.

3. 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.

The land is capable of supporting the proposed development. Comments from service authorities have been sought in relation to the capability of the land. The requirements of service authorities are addressed through conditions and notes on the permit, where appropriate.

At the hearing, Mr Kgosiemang advised that the proposed development would comply with the City of Darwin's waste management requirements.

4. Pursuant to Section 30P(2)(j) of the *Planning Act 1999*, the consent authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated.

Amenity is defined in the *Planning Act 1999* as: *in relation to a locality or building, any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.*

The site is identified within the DISAP as having potential for change from Zone SC (Service Commercial) to Zone MR (Medium-density residential).

The Authority notes the DAS report which concludes the proposed development has been designed to ensure unreasonable impacts on the amenity of nearby dwellings (and future dwellings) are avoided, for the following reasons:

- The single storey scale of the development is consistent with the character of the surrounding area. The building will be well-articulated through building expression as well as a mix of building materials including cement look cladding, timber look cladding, pattern metal perforated screen and skillion colourbond roof.
- Given there are no residential properties directly adjoining, there are limited overlooking and noise impacts.
- Sufficient on-site car parking, safe access and appropriately designed accessways are provided.

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**RESOLVED**  
**06/25**

That, 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.

**RESOLVED**  
**07/25**

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 Darwin Division of the Authority to:

- 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;
- serve a notice of determination under Section 30X(2) in relation to the determination of the development proposal and each person who made a submission.
- issue a development permit under section 54(2) in relation to the development proposal to develop Lot 5021 Town of Darwin (2) Railway Street, Parap, Town of Darwin for the purpose of child care centre in a single storey building and issue the relevant notices under Section 30Y.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Report to the Minister

**ITEM 2**  
**PA2024/0245**

**MULTIPLE DWELLINGS (2 X 3 BEDROOM) IN A SINGLE STOREY BUILDING**

**LOT 11424 (17) MORRIS STREET, MUIRHEAD, TOWN OF NIGHTCLIFF**

**APPLICANT**

One Planning Consult

Applicant: - Israel Kgosiemang (One Planning Consult) attended.

**RESOLVED**  
**08/25**

That, the Development Consent Authority pursuant to section 53(a) of the *Planning Act 1999* consent to the application to develop Lot 11424 (17) Morris Street, Muirhead, Town of Nightcliff for the purpose of multiple dwellings (2 x 3 bedroom) in a single storey building, subject to the following conditions:

### **CONDITION PRECEDENT**

1. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin.
2. Prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve to the satisfaction of the consent authority.
3. Prior to the commencement of works (including site preparation), an



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engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.

4. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.

### GENERAL CONDITIONS

5. The works carried out under this permit shall be in accordance with the drawings numbered 2024/0245/01 to 2024/0245/13, endorsed as forming part of this permit.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 1, 2, 3, and 4 for further information.

7. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
9. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report, to the satisfaction of the consent authority.
10. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin, to the satisfaction of the consent authority.
11. The owner shall:
  - (a) remove disused vehicle and/ or pedestrian crossovers;
  - (b) provide footpaths/ cycleways;

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- (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 Darwin, to the satisfaction of the consent authority.
12. 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 to the requirements of the City of Darwin, to the satisfaction of the consent authority.
  13. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
  14. 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.

### NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (EoI) form via email to [remotedevelopment@powerwater.com.au](mailto:remotedevelopment@powerwater.com.au)
3. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit [www.infrastructure.gov.au/tind](http://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>

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5. A “Permit to Work Within a Road Reserve” may be required from the City of Darwin before commencement of any work within the road reserve.
6. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.
7. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant’s expense, to the requirements of City of Darwin.
8. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.

### REASONS FOR THE DECISION

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

This application is to be determined under the Northern Territory Planning Scheme 2007 (NTPS 2007), because under Schedule 4: Specific Use Zones of the NT Planning Scheme 2020, it states that the Specific Use Zones listed in the Table to the Schedule (of which SD23 is one) are subject to the relevant requirements contained in the NTPS2007.

Under the NTPS 2007, Clause 5.2.1 (General Height Control), Clause 5.2.4 (Car Parking), Clause 6.5.1 (Parking Requirements, Clause 7.1 (Residential Density and Height Limitations), Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 7.5 (Private Open Space), Clause 7.6 (Communal Open Space), Clause 7.7 (Landscaping for Multiple Dwellings, Hostels and Supporting Accommodation), and Clause 7.8 (Building Design for Multiple Dwellings, Hostels and Supporting Accommodation) need to be considered.

The Authority noted the assessment completed by Development Assessment Services (DAS), which concludes the proposal complies with the relevant requirements of the NTPS 2007.

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

The land is capable of supporting the proposed development. Dwelling-multiple is an expected form of development within Muirhead. The land is

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not impacted by any overlays. Service authorities did not identify any issues of concern in relation to land capability that would not ordinarily be addressed via standard conditions on a permit. Additionally, the Department of Lands, Planning, and Environment did not identify or raise any issues of concern in relation to land capability.

The Authority note that the conditions on the permit will reasonably address land capability concerns identified by the relevant service authorities.

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

The impact on amenity should be considered in context of the site and its surrounds. The proposal is consistent with Zone SD23, in that the land is identified for the development of multiple dwellings, and that the proposal is consistent with the applicable clauses under the NTPS 2007. As such, the development would be unlikely to have an unreasonably adverse impact on the existing and future amenity of the area

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Consent and Development Permit

### ITEM 3

**THIS APPLICATION WAS WITHDRAWN FROM THIS MEETING**

### ITEM 4

PA2024/0340

**DWELLING-MULTIPLE (72 X ONE BEDROOM AND 24 X TWO BEDROOM) IN A 9 STOREY BUILDING INCLUDING 2.5 LEVELS OF ABOVE - GROUND LEVEL CAR PARKING.**

**LOT 8895 (20) HARVEY STREET, DARWIN CITY, TOWN OF DARWIN**

**APPLICANT**

Atelier Mark Bell Pty Ltd

Applicant: Mark Bell (Atelier Mark Bell Pty Ltd) attended.

**RESOLVED  
09/25**

That, the Development Consent Authority reduce the car parking requirements pursuant to clause 5.9.2.12 Reduction in car parking spaces in Darwin City Centre, and vary the requirements of Clauses 5.2.4.4 Layout of Car Parking Area, 5.4.6.2 Private Open Space for Dwelling-multiple, 5.4.7 Communal Open Space, 5.4.17 Building Articulation, 5.5.17 Building Frontage in Commercial and Mixed Use Areas and 5.9.2.13 Design of Car Parking Areas and Vehicle Access, 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 08895 (20) Harvey Street, Darwin City, Town of Darwin for the purpose of dwelling-multiple (72 x one bedroom and 24 x two bedroom) in a 9 storey building including 2.5 levels of above - ground level car parking, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required for the provision of awnings to the street frontages to the requirements of the City of Darwin, to the satisfaction of the consent authority.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required by the City of Darwin for any element of the building (separate to awnings) that is designed to be constructed or installed over the City of Darwin road reserve, to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
5. Prior to the commencement of works, the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of City of Darwin, to the satisfaction of the consent authority.
6. Prior to the commencement of works (including site preparation), a waste management plan addressing the City of Darwin's Waste Management Guidelines must be prepared, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
7. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.

**GENERAL CONDITIONS**

8. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity

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and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notations 1, 2 and 3 for further information.

10. 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.
11. 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.
12. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
13. 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;
  - 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.
14. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin to the satisfaction of the consent authority.
15. 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 Darwin, to the satisfaction of the consent authority.
16. All proposed works impacting on Harvey Street are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of the City of Darwin. Drawings must be submitted to the City of Darwin, for approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".

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17. 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 City of Darwin, to the satisfaction of the consent authority.
18. 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.
19. 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.
20. 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. An Occupancy Permit will not be able to be granted until such time as addressing is obtained.
21. Waste bin enclosures, storage and pick-up shall be provided in accordance with City of Darwin's Waste Management Guidelines, to the satisfaction of the consent authority.
22. All roof top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
23. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
24. A Compliance Certificate under the *Swimming Pool Safety Act 2004* issued by the Swimming Pool Safety Authority is required for the swimming pool prior to the commencement of the use/development to the satisfaction of the consent authority.
25. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report.
26. 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.

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27. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.

### NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto: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](http://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. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport and the Department of Defence NT for any cranes used during construction that will infringe on either the Obstacle Limitation Surfaces (OLS) or Procedures for Air Navigation Services – Operations (PANS-OPS) surfaces for Darwin Airport.
5. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5346 ([surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au)).
6. A "Permit to Work Within a Road Reserve" may be required from City of Darwin 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



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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>.

8. 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.
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](mailto:info@ntbuild.com.au)) or by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.
10. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.
11. Sediment control measures are to be established and maintained, to prevent silt and sediment escaping the site or causing erosion.
12. Building rubbish or debris must not be placed, or be permitted to be placed, on any adjoining public reserve, footpath or road, without first obtaining approval from City of Darwin.
13. Any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin's Policy 6310.100.E.R – Outdoor Advertising Signs Code.

### 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 (NTPS 2020) applies to the land and Dwelling-Multiple requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 4.10 therefore the zone purpose and outcomes of Clause 4.10 Zone CB (Central Business) and Clauses 5.2.1 General Height Control, 5.2.4 Car Parking, 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

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HR, CB, C, SC and TC, 5.4.4 Extensions and Structures Ancillary to a Dwelling-Group or Dwelling-Multiple Development 5.4.6 Private Open Space, 5.4.7 Communal Open Space, 5.4.17 Building Articulation, 5.5.15 Design in Commercial and Mixed Use Areas, 5.5.17 Building Frontage in Commercial and Mixed Use Areas and 5.9.2 Darwin City Centre, need to be considered.

The Authority notes the assessment of Development Assessment Services (DAS) which found that the proposed development complies with the relevant requirements of the NTPS 2020 except for Clauses 5.2.4.4 Layout of Car Parking Area, 5.4.6.2 Private Open Space for Dwelling-multiple, 5.4.7 Communal Open Space, 5.4.17 Building Articulation, 5.5.17 Building Frontage in Commercial and Mixed Use Areas, 5.9.2.11 Car parking spaces in Darwin City Centre and 5.9.2.13 Design of Car Parking Areas and Vehicle Access.

To confirm compliance with Clause 5.5.15 Design in Commercial and Mixed Use Areas, the Authority sought confirmation of the location of the air conditioner units and substation. Mr Bell confirmed that the air conditioner condenser units are located on the roof, with each apartment provided its own riser to directly connect to the units and the substation is located at the ground floor.

The Authority also questioned whether the waste chutes have been acoustically treated. Mr Bell confirmed that proposed Wastetech garbage chute system uses plastic chutes in lieu of traditional steel chutes, which allow for quieter and smoother waste disposal. As part of its deferral response, the applicant confirmed that the chutes provide both noise and vibration prevention and do not require additional acoustic lagging as typically required with steel chute systems.

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).

As the application is *Merit Assessable* the exercise of discretion by the consent authority that applies is Clause 1.10(3) (Exercise of Discretion by the Consent Authority) of the NTPS2020.

*In considering an application for a use or development identified as Merit Assessable the consent authority must take into account all of the following:*

- a) *the relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;*
- b) *any Overlays and associated requirements in Part 3 that apply to the land; and*
- c) *the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6.*

An assessment of the relevant parts of NTPS2020 is as follows:

**Part 3 – Overlays**

There are no overlays applicable to the site.

**Part 4 – Zoning**

Clause 4.10 Zone CB – Central Business

The purpose is to '*promote an active and attractive mixed use environment that maximises its function as the commercial, cultural, administrative, tourist and civic centre for the surrounding region that is integrated with high density residential development*'.

The proposed development supports the purpose of Zone CB as it is for a 9 storey high density residential development on a site that is well located in the Darwin CBD with access to public transport, community services and employment opportunities.

In relation to the proposed developments' variation of Clause 5.4.17 Building Articulation (see below for consideration of this clause), the sub-clause 8 Zone CB requirement is relevant.

Sub-clause 8 requires that '*development incorporates innovative building design, site layout and landscaping that:*

- a) *responds to and encourage pleasant microclimates, including through breeze capture and shading*

At the hearing, the Authority noted that while the NTPS 2020 does not require habitable rooms to have external wall facing windows, it is acknowledged that the proposed design provides adequate breeze capture and access to light. Mr Bell explained that the proposed design exceeds the minimum National Construction Code ventilation and natural light requirements.

The Authority notes that the applicant provided a written response and supplemental drawing explaining how each dwelling is able to capture breezes and channel these through the apartments and the central walkway. As part of their deferral response, the applicant advised there is an existing 3 metre wide services easement along the western common boundary on the adjoining property and therefore in their opinion any future development would be setback 3 metres from the common boundary ensuring that the light court / void of the proposed development retains access to natural light and ventilation. If a future development were to be built up against the proposed development, this would require light courts /void to be mirrored in order to preserve the proposed developments access to natural light and ventilation. As a result of the above justification, the proposed development is considered to comply with sub-clause 8(a).

## Part 5 – Development Requirements

The Authority notes the assessment of DAS which found that the proposed development is not in accordance with Clauses 5.2.4.4 Layout of Car Parking Area, 5.4.6.2 Private Open Space for Dwelling-multiple, 5.4.7 Communal Open Space, 5.4.17 Building Articulation, 5.5.17 Building Frontage in Commercial and Mixed Use Areas, 5.9.2.11 Car parking spaces in Darwin City Centre, and 5.9.2.13 Design of Car Parking Areas and Vehicle Access.

### Clause 5.2.4.4 Layout of Car Parking Area

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

With reference to sub-clause 8(d), car parking space No.89 is 2.5 metre wide, and is perpendicular to the end of a driveway, which only projects 0.718 metres beyond that car parking space, and therefore does not comply with the requirement. At the hearing, Mr Bell highlighted that this is a minor non-compliance.

Administratively, sub-clause 3 specifies that *'the consent authority may consent to a car parking area that is not in accordance with sub-clauses 7 and 8 if it is satisfied that the design and construction is safe and functional with regard to the location of the development'*.

The proposed variation to the car parking area driveway projection was considered appropriate as the application is accompanied by a traffic impact assessment that confirms *'on-site car parking has been designed in accordance with the relevant clauses of AS/ NZS 2890.1 and 2890.2'*.

### Clause 5.4.6.2 Private Open Space for Dwelling-multiple

The purpose of the clause is to *'ensure dwellings include private open space that enhances the function of the dwelling and are:*

- a) of an adequate size to provide for outdoor living; and*
- b) appropriately sited to provide outlook for the dwelling'.*

With reference to sub-clause 3(a), each dwelling is provided with a minimum area of 12m<sup>2</sup> with no dimensions less than 2.8m, except for the north-western corner dwelling (at levels 4 – 9) which has a minimum width of 2.4m.

Administratively, sub-clause 2 specifies that *'the consent authority may consent to dwellings-multiple, other than dwellings-multiple comprising of serviced apartments in Zone TC, that is not in accordance with sub-clauses 3-5 if it is satisfied the development is consistent with the purpose of this clause'*.

The proposed variation to the balcony width of the north-eastern corner apartments (affecting 6 apartments) is appropriate for the following reasons:

- The proposed balconies comply with the minimum area requirement.
- The proposed balconies are sited to take advantage of views towards Darwin Harbour.

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- The proposed balconies have a minimum width of 2.4 metres which is considered adequate size to provide for outdoor living.
- Furthermore, the development provides communal open space which provides opportunities for residents of the development to utilise as wanted, enhancing the function of the dwellings.

### Clause 5.4.7 Communal Open Space

The purpose of the clause is to *'ensure that suitable areas for communal open space are provided for dwellings-multiple, residential care facilities and rooming accommodation'*.

With reference to sub-clause 5, the proposed communal open space includes areas that are less than 6m wide, and therefore does not comply.

Administratively, sub-clause 3 specifies that *'the consent authority may consent to a development in Zone C or Zone CB that is not in accordance with sub-clauses 5 and 6 if appropriate recreational space for the occupants of the development is provided, having regard to the following matters:*

- a) whether the communal open space has usable dimensions and is of a sufficient size for the density of the development;*
- b) the development is in proximity to adequate public open space or sufficient amenities; and*
- c) whether there is an appropriate increase in private open space provided (over that which is required by Clause 5.4.6), for each dwelling in the development'.*

At the hearing, Mr Bell explained that due to the trapezoidal shape of the site, it was very challenging to meet the minimum 6m wide requirement, however, the design provides over and above the required total area for communal open space. Mr Mark Bell described the different communal open space locations, with the ground floor outdoor area designed to face the existing open space to the rear of the lot, a ground floor multi-purpose room and covered outdoor space with landscaping at levels 1 and 2. The spaces are designed to take advantage of the breezes and the morning and afternoon sun.

The proposed variation to minimum width of the communal open space was considered appropriate for the following reasons:

- The proposal responds to the unique site constraints through providing communal open space in areas of the development that would be otherwise underutilised, for example, providing the communal open space along the rear boundary of the site.
- The proposed area of communal open space complies with the minimum area requirements and is of a sufficient size for the scale of the development.
- All dwellings are provided with private open space that meets the minimum area requirements.

Clause 5.4.17 Building Articulation

The purpose of the clause 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'*.

With reference to sub-clause 4, a step or recess to the proposed wall along the western and eastern boundaries is not provided at level 2 or level 3 of the proposed development.

Administratively, sub-clause 2 specifies 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'*.

At the hearing, Mr Bell explained that most of the visual interest is provided to the front façade, which is articulated through the use of blade walls, stepped built form and landscaping.

Mr Bell further explained that to reduce the bulk of the western wall along the boundary, they provided a 2.8m wide breezeway, which effectively splits the building into 2 and provides some articulation. In addition, the development proposes to use natural materials to provide texture and have a geometric pattern to provide some visual relief.

The proposed variation to the building articulation requirements was considered appropriate for the following reasons:

- The non-compliant element is limited to level 2 and 3, as levels 4 and above are provided with a light / void that provides daylight amenity for future occupants of the proposal development, natural daylight and ventilation to the buildings communal corridor spaces and provides relief to the extent of the blank wall.
- The proposed walls will be finished in a banded pattern of alternating splitface and fairface coloured blockwork which provides texture and articulation minimising the visual bulk.

Clause 5.5.17 Building Frontage in Commercial and Mixed Use Areas

The purpose of the clause is to *'encourage primary frontages of commercial buildings to contribute to a pleasant pedestrian environment and provide visual connectivity with their surroundings'*.

With reference to sub-clause 6, The proposed building provides an awning along the full length of the site boundary and covers the full width of the footpath however it is not a minimum of 3m wide.

Administratively, sub-clause 3 specifies that *'the consent authority may consent to a development that is not in accordance with sub-clause 6 if the development provides appropriate shading for pedestrians adjacent to the primary frontage'*.

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The proposed variation to the awning requirements was considered appropriate as the proposed awning covers the full width of the footpath and provides appropriate sun and rain protection for pedestrians.

### Clause 5.9.2.2 Volumetric Control

The purpose of the clause is to *'ensure the siting and mass of buildings within the Darwin city centre promotes urban form that is of a scale appropriate to the locality, and provides adequate separation to allow:*

- a) *potential for view corridors to Darwin Harbour;*
- b) *breeze circulation between buildings;*
- c) *penetration of daylight into habitable rooms; and*
- d) *reasonable privacy for residents'.*

Sub-clause 5 requires that development be constructed with a podium up to 25m with 6m setbacks applying to windows to habitable rooms, balconies and verandahs only. The podium has a maximum height of 28.2m, therefore exceeding the requirement by 3.2m.

Administratively, sub-clause 3 specifies that *'the consent authority may consent to a development, excluding development located within the Smith Street Character Area, that is not in accordance with sub-clauses 5 and 6 if it is satisfied the development:*

- a) *is appropriate to the location considering the scale of the development and*
- b) *surrounding built form; and*
- c) *will not unreasonably restrict the future development of adjoining sites'.*

The proposed variation to the requirement to the podium height was considered appropriate for the following reasons:

- The non-compliant element is limited to the upper portion of level 9 and upwards (from 1.9m above finished floor level) which has a maximum height of 28.2m, therefore exceeding the requirement by 3.2m. It is noted that the proposed rooftop plant and associated screening do not form part of the building height dimension.
- In relation to subclause 3(a), the proposed development is reflective of the scale and height of the adjoining properties to the east and given these properties existence there is unlikely to be any impact on existing view corridors to Darwin Harbour.
- In relation to subclause 3(b), the proposed development has been designed so that the development potential of the west is not impacted, this is through the provision of a blank wall along the western boundary with a central light court / void. It is noted that the applicant advised that in their opinion any future development of the adjoining western property would be setback 3 metres from the common boundary due to the presence of a 3 metre wide easement.

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### 5.9.2.11 Car parking spaces in Darwin City Centre

The purpose of the clause is to *'ensure that sufficient off-street car parking spaces, constructed to a standard and conveniently located, are provided to service the proposed use of a site'*.

Subclause 5 specifies that use and development is to include the minimum number of car parking spaces specified in the table to this clause (rounded up to the next whole number).

Dwelling-multiple has a statutory rate of 1 per bed-sitter and one bedroom dwelling and 1.5 per two bedroom dwelling and generates a requirement of 106.5 (rounded up to 107) car parking spaces.

The proposed development provides 103 car parking spaces and therefore has a shortfall of 4 car parking spaces.

### 5.9.2.12 Reduction in car parking spaces in Darwin City Centre

The assessment establishes that pursuant to clause 5.9.2.11 Car parking spaces in Darwin City Centre, there is a shortfall of 4 car parking spaces.

The purpose of clause 5.9.2.12 is *'to provide for a use or development with fewer car parking spaces than required by clause 5.9.2.11 (Car parking spaces in Darwin City Centre)'*.

The applicant has sought consent to apply the reductions available pursuant to sub-clause 1 and sub-clause 2.

In accordance with sub-clause 1, the Authority notes that the development provides 14 motorcycle spaces and in accordance with sub-clause 1(a), determined to reduce the car parking space requirement by 4 car parking spaces

As a result, a reduction of 4 car parking spaces can be applied ( $106.5 - 4 = 102.5$ ) and rounded up 103 car parking spaces are required. After applying the reduction, the proposed development provides the required amount of car parking spaces.

### Clause 5.9.2.13 Design of Car Parking Areas and Vehicle Access

The purpose of the clause is to *'promote design of car parking, vehicle access points and onsite movement that:*

- a) is easily adapted to meet changing demand;*
- b) minimises visual impact to the street and other public areas; and*
- c) minimises impacts to pedestrian and cyclist movement'*.

The assessment confirms that the proposed development does not comply with sub-clause 3, as ground level car parking is proposed for residential purposes.



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Administratively, the 'consent authority may consent to a development that is not in accordance with sub-clauses 3-6 if it is satisfied the use or development is appropriate to the site having regard the potential impact on the surrounding road network and the amenity of the locality'.

The proposed variation to the requirement for ground level residential car parking was considered appropriate for the following reasons:

- The application is accompanied by a traffic impact assessment that confirms 'the additional traffic generated by the development will not result in adverse impacts on the surrounding road network. This has been confirmed through traffic modelling using SIDRA Intersection 9 modelling software'.
  - In addition, the ground floor car parking area has a minimum floor to ceiling height of 4 metres which allows the area to be adapted to commercial uses should there be a demand in the future.
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 overall height and scale of the development is consistent with that anticipated in the Darwin CBD with respect to the capability of the land and the effect on surrounding properties. Additionally, the Department of Lands, Planning and Environment (Environment Division) 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.

Whilst the development will result in a change to the appearance of the site (noting the site is currently vacant land), it is consistent with that expected in Zone CB (Central Business) as a *Merit Assessable* development, including overall height, scale and residential use proposed. The development is noted as similar in scale to the adjoining properties.

In addition, the proposed walls on boundary have been designed to not impact on the development potential of the adjoining property along with minimising visual bulk when viewed from adjoining properties through the provision of a light / void to provide relief to the extent of the blank wall and the proposed finishes in a banded pattern of alternating splitface and fairface coloured blockwork which provides texture and articulation, minimising any adverse visual impacts.

Overall, the development is not anticipated to adversely impact the existing or future amenity of the area.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Consent and Development Permit

ITEM 5  
PA2023/0421

**CONCURRENT APPLICATION**  
**REZONE FROM LR (LOW DENSITY RESIDENTIAL) TO LMR (LOW-MEDIUM DENSITY RESIDENTIAL); AND**  
**4 X 4 BEDROOM DWELLINGS-GROUP IN 2 X 2 STOREY BUILDINGS**  
**LOT 131 (68) ARALIA STREET, NIGHTCLIFF, TOWN OF NIGHTCLIFF**  
Cunnington Rosse Town Planning and Consulting

APPLICANT

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

RESOLVED  
10/25

That, the Development Consent Authority pursuant to section 30P(1)(a) of the Planning Act 1999 decide that, if the Minister were to approve the amendment proposal to rezone Lot 131 Town of Nightcliff (68 Aralia Street, Nightcliff) that it would be likely to determine to consent to the development under section 30W(1)(a) conditionally for the purpose of dwelling-group (4 x 4 bedroom) in 2 x 2 storey buildings subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans 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 proposed 1.8m high blockwork fence complies with AS2890.1, and provides sight lines for pedestrians on the footpath adjacent to the vehicle access.
2. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin.
3. Prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.
4. Prior to the commencement of works (including site preparation), a waste management plan addressing the City of Darwin's Waste Management Guidelines must be prepared, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
5. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the

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requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.

### 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, 2, 3, and 4 for further information.

8. 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
9. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report
10. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
11. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin to the satisfaction of the consent authority
12. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin, to the satisfaction of the consent authority.
13. 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 Darwin, to the satisfaction of the consent authority.
14. 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

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the driveway and the public street to the requirements of the City of Darwin, to the satisfaction of the consent authority.

15. Vehicle access to the site must meet City of Darwin requirements, including the width and location of the access, as the driveway is not permitted along the boundary line.
16. All street trees, including the existing street tree within the Pandanus Street road reserve, shall be protected at all times during construction to the requirements of the City of Darwin, to the satisfaction of the consent authority.
17. 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.
18. The private open space areas of each dwelling shall be screened on each boundary by:
  - a. the erection of a solid wall or screen fence not less than 1.8 metres high; or
  - b. fenced to a height not less than 1.8 metres high and planted with dense vegetation
19. 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.
20. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

### NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (Eol) form via email to [remotedevelopment@powerwater.com.au](mailto:remotedevelopment@powerwater.com.au)
3. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in

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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](http://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. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
6. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
7. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.
8. City of Darwin advises that all street trees shall be protected at all times during construction. Any tree on a footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of the General Manager Infrastructure, City of Darwin. A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development, in accordance with Australian Standards – AS 4970-2009 "Protection of Trees on Development Sites". Copies of AS 4970-2009 "Protection of Trees on Development Sites" can be obtained from the Australian Standards website.

### 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.

Section 51 sub-clause 3 states that when considering a development application under subsection (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.

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### Northern Territory Planning Scheme 2020 (NTPS 2020)

The application is *Merit Assessable* under sub-clause 1(b)(i) of Clause 1.8 of the NTPS2020, as the 'dwelling-group (3+)' land use is shown as *Merit Assessable* in Zone LMR (Low Medium Density Residential).

The exercise of discretion by the Development Consent Authority for this development application is set out in sub-clause 3 of Clause 1.10, which specifies that:

*In considering an application for consent for a use or development identified as Merit Assessable the consent authority must take into account all of the following:*

- a) *the relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;*
- b) *any Overlays and associated requirements in Part 3 that apply to the land; and*
- c) *the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6.*

### **Part 3 – Overlays**

There are no overlays applicable to the site, thus Part 3 of NTPS2020 is not applicable.

### **Part 5 – Development Requirements**

The Authority notes the assessment of DAS which assessed the development proposal against the requirements of the Northern Territory Planning Scheme 2020 (NTPS 2020), where applicable requirements include Clauses 5.2.1 (General Height Control), 5.2.4 (Car 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), 5.4.8 (Residential Building Design), and 5.4.17 (Building Articulation).

These clauses have been considered and it is found that the proposal complies with all relevant requirements of the NTPS 2020.

2. Pursuant to Section 30P(2)(j) of the *Planning Act 1999*, the consent authority must take into account the capability of the land to support the development proposal and the effect of the proposal on the land, and on other land, the physical characteristics of which may be affected by the proposal.

Dwelling-group is an expected form of development within Zone LMR. The land is not impacted by any overlays, with no structures proposed on or over the sewerage easement on-site. Service authorities did not identify any issues of concern in relation to land capability that would not ordinarily be addressed via standard conditions on a permit. Additionally, the Department of Lands, Planning and Environment (Environment Division) did not identify or raise any issues of concern in relation to land capability. The land is capable of supporting the proposed development.

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3. Pursuant to Section 30P(2)(k) 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.

The site is in close proximity to public open spaces, commercial areas, community facilities, and recreational amenities, with convenient access to public transport. There is no requirement for the provision of public facilities or open space as part of the application.

4. Pursuant to Section 30P(2)(m) of the *Planning Act 1999*, the consent authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated.

No adverse impacts on the existing and future amenity of the area are foreseen as a result of the proposed development, with the proposal considered to comply with the purpose and outcomes of the Zone LMR. This form of development is compatible with the existing character of the locality in Nightcliff.

**RESOLVED  
11/25**

That 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.

**RESOLVED  
12/25**

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 Darwin Division of the Authority to:

- 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;
- issue a development permit under section 54(1) in relation to the development proposal to develop Lot 131 (68) Aralia Street , Nightcliff, Town of Nightcliff for the purpose of dwelling-group (4 x 4 bedroom) in 2 x 2 storey buildings; and
- issue the relevant notices under Section 30Y.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Report to the Minister

ITEM 6  
PA2024/0389

**ALTERATIONS AND ADDITIONS TO AN EXISTING SERVICE STATION  
LOT 9576 (247) TROWER ROAD, CASUARINA, TOWN OF NIGHTCLIFF**  
Cunnington Rosse Town Planning and Consulting

APPLICANT

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

RESOLVED  
13/25

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 area), 5.2.6.1 (Landscaping in zones other than Zone CB), 5.5.8 (Service station), and 5.5.15 (Design in commercial and mixed use areas) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 9576 (247) Trower Road, Casuarina, Town of Nightcliff for the purpose of alterations and additions to an existing service station, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the commencement of works (including site preparation), a traffic impact assessment is to be prepared by a suitably qualified traffic engineer with attention to the modelling of the adjacent intersection and the upgrade to the Trower Road and Dripstone Road intersection, and identifying any necessary upgrades to the surrounding street network to the requirements of the Transport and Civil Services Division (TCSD), of the Department of Logistics and Infrastructure (DLI), to the satisfaction of the consent authority.
2. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin and/or TCSD, DLI stormwater drainage system shall be submitted to and approved by the relevant service authority, to the satisfaction of the consent authority. The plan shall include details of site levels and relevant stormwater drain connection point(s). The plan shall also indicate how stormwater will be collected on the site and connected underground to the relevant stormwater drainage system.

**GENERAL CONDITIONS**

3. The works carried out under this permit shall be in accordance with the drawing numbered 2024/0389/01 endorsed as forming part of this permit.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notation 3 for more information.
5. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.



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6. All works recommended by the traffic impact assessment are to be completed to the requirements of TCSD, DLI, 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 Darwin and/or TCSD, DLI, to the satisfaction of the consent authority.
8. Upon completion of any works within or impacting upon the Trower Road road reserve, the road reserve shall be rehabilitated to the standards and requirements of TCSD, DLI.
9. 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;
  - (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 drivewaysto the satisfaction of the consent authority.
10. Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
11. 'No entry' and 'No exit' signs and arrows directing the internal traffic movement on site shall be provided at completion of building to the requirements and satisfaction of the consent authority.
12. 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.
13. 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.
14. 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.
15. 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. The traffic impact assessment should specifically address the following issues relating to the Trower Road southern access and Trower Road / Dripstone Road intersection and provide recommendations:
  - a. Proximity of the access to the intersection and its impact on the intersection capacity, traffic and road user / motorists safety at the access.
  - b. Detailed analysis of the intersection traffic performance and the development's impact on the intersections performance within a 10 year design horizon.
  - c. Swept path diagrams for the maximum sized vehicles intended to access the lot, to demonstrate that access are appropriately sized, vehicles are capable of entering and leaving the development site in forward gear and shall cause no disruption to traffic, queuing or adverse impact on the safety of the road network.
  
2. The Transport and Civil Services Division, Department of Logistics and Infrastructure has advised that:
  - a. A development permit issued under the *Planning Act 1999* is not an approval for access onto a Territory Road. Approval for access to be taken from, or constructed within the NTG controlled road reserves rests solely with TCSD, DLI, as the approving road authority. This extends to construction and delivery vehicles, which shall not be parked on public road reserves.
  - b. Access to the site shall be via the existing driveways. No additional access from Trower Road shall be permitted by TCSD, DLI.
  - c. 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).
  - d. The sign shall be positioned:
  - e. so as not to create sun or headlight reflection to motorists; and
  - f. be located entirely (including foundations and aerially) within the subject lot.
  - g. Advertising signage, either permanent or temporary, such as 'A' frame, vehicle or trailer mounted shall not be erected or located within the Trower Road road reserve.
  - h. 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 Trower Road traffic
  - i. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into City of Darwin or TCSD, DLI drains or to any watercourse.
  - j. Any proposed work (including the provision or connection of services, or upgrade/resurfacing of footpaths) within, or impacting upon the Trower Road road reserve shall be in accordance with the standards and specifications of TCSD, DLI. Design documents must be submitted to TCSD for Road Agency Approval and no works are to commence prior to approval and receipt of a 'Permit to Work Within a Road Reserve'

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- k. The loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network. Where tracked material on the road pavement becomes a potential safety issue, the developer will be obliged to sweep and clean material off the road.
3. 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.
4. Notwithstanding the approved plans, all signage is subject to the City of Darwin approval, at no cost to Council.
5. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (WMPC 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 WMPC Act, including the General Environmental Duty under section 12 of the WMPC Act. There is also requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the WMPC Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority (NT EPA) website <https://ntepa.nt.gov.au/publications-and-advice/environmental-management>. To help satisfy the General Environmental Duty, the proponent is advised to take notice of the list of environmental considerations below. The list is not exhaustive and the proponent is responsible for ensuring their activities do not result in non-compliance with the WMPC Act. The WMPC Act, administered by the NT EPA, is separate to and not reduced or affected in any way by other legislation administered by other departments or authorities. The NT EPA may take enforcement action or issue statutory instruments should there be non-compliance with the WMPC Act.
6. 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.
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

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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 service station requires consent under clause 1.8 (When development consent is required). It is identified as Impact Assessable under clause 1.8(1)(c)(i), therefore the strategic framework (Part 2 of the Scheme, including Darwin Regional Land Use Plan 2015, zone purpose and outcomes of clause 4.11 Zone C (Commercial), and clauses 5.2.1 (General height control), 5.2.4.1 (Car parking spaces), 5.2.4.4 (Car parking layout), 5.2.4.5 (Vehicle access and on-site parking for dwellings-single on lots less 600m<sup>2</sup> but not less than 300m<sup>2</sup>), 5.2.5 (Loading bays), 5.2.6.1 (Landscaping in zones other than Zone CB), 5.2.6.2 (Landscaping in Zone CB), 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), 5.5.4 (Expansion of existing developments in zones CB, C, SC and TC), 5.5.8 (Service station), 5.5.15 (Design in commercial and mixed use areas) and 5.5.17 (Building frontage in commercial and mixed use areas), need to be considered.

The Authority noted the assessment completed by Development Assessment Services (DAS), which concludes the proposal complies with the relevant requirements of the NTPS 2020 except for clauses 5.2.4.1 (Car parking spaces), 5.2.4.4 (Car parking layout), 5.5.8 (Service station), and 5.5.15 (Design in Commercial and Mixed Use Areas).

Mr Brad Cunnington from Cunnington Rosse Town Planning Consultants (applicant) attended the meeting, and spoke further to the application, and provided an overview of the proposed development.

#### Part 2 – Strategic Framework

The Darwin Regional Land Use Plan (DRLUP) 2015 applies to the subject site. The purpose of the DRLUP is to identify the essential characteristics and needs that will shape future development in the region and establish an overarching framework for that development. The location of the proposed development is in an area identified for 'urban/peri-urban' land use.

These areas are intended to accommodate a full range of land uses, from residential to commercial uses. The proposed development is for the alterations and additions to an existing service station, which will continue to provide retail and refuelling services for the area and is consistent with the purpose of the DRLUP. The scale of the development is considered appropriate to the service function of Casuarina as a regional centre.

Mr Cunnington explained that the development is the refurbishment of an existing service station premises, primarily by increasing the number of fuel

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browsers, and the expansion of the ancillary, convenience retail into premises previously used as a motor repair station (abandoned since 2011). Mr Cunnington suggested that this application represents an opportunity to tidy up a run-down site, and may support the aspirations of the underlying landowner, Sentinel Group.

### Part 4 – Clause 4.11 Zone C (Commercial)

The proposal is for alterations and additions to an existing service station, on the same property as and adjacent to an existing shopping centre. The existing shopping centre includes a mix of shops, food premises, eateries and services in a manner and at a scale consistent with its position as a primary activity centre. The proposal will improve the amenity of the refuelling services provided in the locality, by removing an abandoned use, and refurbishing the service station.

The application was circulated to several service authorities, including the Transport and Civil Services Division (TCSD) of the Department of Logistics and Infrastructure (DLI) and the City of Darwin for their comments regarding impact on the local road network.

The proposed building design provides variety and interest at street level through a reduction in general car parking areas, and additional fuel browsers. Passive surveillance opportunities are provided through increased retail footprint of the service station, and inclusion of transparent glass frontage. The building design minimises the expanse of blank wall through the use of windows, entrances signage, awnings and varied heights to the façade along Trower Road and Dripstone Road. The proposal complies with the height requirements for the site. The scale of the development is considered appropriate to the service function of Casuarina as a regional centre and is sufficiently separated from sensitive land uses including residential uses to the east of Trower Road.

### Part 5 – Development requirements

The Authority noted the DAS assessment of the proposal found that it complies with the relevant requirements of the NTPS 2020, with the exception of clauses 5.2.4.1 (Car parking spaces), 5.2.4.4 (Car parking layout), 5.5.8 (Service station), and 5.5.15 (Design in Commercial and Mixed Use Areas). This has been discussed further under reason (2).

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).*

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In response to clause 1.10(5)(a), variations to the clauses listed in paragraph (1) are considered appropriate as discussed below.

### Clause 5.2.4.1 (Car parking spaces)

The purpose of this clause is to *Ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a site.*

Clause 5.2.4.1(4) requires that a *Use and development is to include the minimum number of car parking spaces specified in the table to this clause (rounded up to the next whole number) [where 8.8 (9) car parking spaces are calculated] where only 6 car parking spaces are provided on-site.*

Administratively, sub-clause (2) states *The consent authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to:*

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

In response to sub-clause (a), in addition to the application, Mr Cunnington advised that the provision of 26 fuel bowsers, locations for which the majority of cars utilising the retail space will park their vehicles, are not included in the calculation. As such, the subject site can be reasonably considered as providing sufficient car parking for future site users, as most users of the service station will be parked at the fuel bowsers, and do not remain on-site for extended periods of time.

In addition, Mr Cunnington advised that the future operator of the service station don't offer trailer rentals, thereby returning two car parking spaces for visitors, compared to what currently occurs on-site. The Authority also noted that as the site no longer contains a motor repair station, the number of visitors (including those who remain at the premises of extended periods of time), have likely decreased from what was previously approved.

In response to sub-clause (b), the area subject to this application is located immediately adjacent the lower level of the multi-storey car parking facility associated the Casuarina Square shopping centre.

In response to sub-clause (c), the site is located less than 700 m from the Casuarina interchange. However, it is reasonably considered that the majority of site users will be those who arrive at the development in vehicles, or are walking past.

In response to sub-clause (d), the development will result in an intensification of site use, on a prominent street corner. A permit condition has been applied

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to the development permit requiring that a traffic impact assessment, to the standards of TCSD, DLI, is completed prior to the commence of site works.

Based on the above discussion, the proposed variation is clause 5.2.4.1 (Car parking spaces) is acceptable, as the shortfall in car parking spaces is not considered likely to result in adverse impacts to local street network.

### Clause 5.2.4.4 (Layout of car parking area)

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

Clause 5.2.4.4(6) requires that *A car parking area is to: (a) be not less than 3m from any lot boundary abutting a road; ....., where approximately a 2 m buffer is provided adjacent two car parking spaces.*

Administratively, sub-clause (3) states *The consent authority can he 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.*

In response to sub-clause (3), a variation to this clause is considered appropriate as no reduction to the existing landscaped buffer between the car parking/bowser area and property boundary is proposed. In addition, it is considered that the proposed 'new low height planting to landscaping beds' will likely increase the visual appeal of the subject site from the public domain. Mr Cunnington supported a variation to this clause, as although the landscaping will be less than that required under the NTPS 2020, this application will result in the re-establishment of the garden beds, thereby improving the local amenity.

In addition, sub-clause (8) requires that *The layout of a car parking area is to: (d) ensure parking spaces at the end of and perpendicular to a driveway are 3.5m wide or so that the driveway projects 1m beyond the last parking space, where there is an instance of only a 0.6 m projection provided adjacent to the car parking space located along the north-western site boundary.*

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

In response to sub-clause (4), it is noted that the car parking area that affected by this clause contains one car parking space, that will likely be utilised by vehicles entering from the one-way entrance of Dripstone Road. This one space is located over 18 m from the one-way driveway entrance, and as such, it is considered unlikely that a vehicle performing a reversing manoeuvre would cause a conflict with vehicles entering the site.

In addition to the non-compliances, the Authority requested that Mr Cunnington explain the flow of traffic on-site. Mr Cunnington advised that

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although no changes were proposed to the site accesses (one-way entrances and exits), which are not ideal, this application represents an opportunity to complete renewed line marking, which would improve site safety.

The Authority then queried whether the refuelling vehicles would be able to safely navigate and leave the site. Mr Cunnington advised that condition precedent 1, which concerned the completion of a traffic impact assessment, would detail the swept path movements of all vehicles accessing the site, and be to the satisfaction of TCSD, who have responsibility for Trower Road.

Based on the above discussions, a variation to clause 5.2.4.4 (Car parking layout) is acceptable, as the non-compliances are considered minor in scale, and the proposed car parking layout conforms with the layout that has performed adequately to date.

### Clause 5.5.8 (Service station)

The purpose of this clause is to *Ensure that a service station: (a) is developed in a location that provides convenient access and does not interfere with the safe and efficient operation of the local road, cycle and footpath network; (b) does not, because of appearance or the emission of fumes, noise or light, unreasonably affect the use and enjoyment of the site and adjacent land; (c) incorporates appropriate site layout, building and landscape design to ensure that there are no unreasonable impacts on the anticipated amenity of land adjacent to the land on which the development is taking place; (d) incorporates best practice environmental management measures to prevent contamination of land, stormwater, groundwater and air; and (e) responds to existing and anticipated development on the site and adjacent land.*

Clause 5.5.8(1) requires that *Fuel bowsers associated with the service station are visually screened, where no screening is proposed.*

Administratively, sub-clause (1) states *The consent authority may consent to a service station that is not in accordance with sub-clauses 2-4 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, nature, scale and impact on surrounding amenity.*

In response to sub-clause (1), it is standard for fuel bowsers to be visible from the adjacent public domain. Although this application proposes the addition of new fuel bowsers, it is reasonably considered unfeasible for the bowsers to be screened in a way that screens them from the public domain, based on the existing site layout. In addition, the Authority notes that including the provision of screening around fuel bowsers may reduce the potential of passive surveillance, and create areas of potential entrapment at the site.

Based on this, a variation to clause 5.5.8(1) is acceptable, as the non-compliance is reasonably expected for this type of land use, and unlikely to have a tangible impact on local amenity.



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In addition, clause 5.5.8(3) requires that *Street frontages, except access driveways or footpaths, are to be landscaped to a minimum depth of 3m, where approximately 2 to 3 metres of landscaping is proposed, that what currently exists.*

In response to sub-clause (1), it is considered that as this application does not propose any further reduction to the landscaping buffer between the car parking/fuel bowser area, and that the application will result in new low height planting.

Based on the above discussions, variation to clause 5.5.8 (Service station) is acceptable, as the application will not reduce the existing landscaping amount, and through this application, will improve the landscaping outcomes at the site.

### Clause 5.5.15 (Design in commercial and mixed use areas)

The purpose of this clause is to *Encourage a diverse mix of commercial and mixed use developments that are safe, contribute to the activity and amenity of commercial centres, are appropriately designed for the local climate, and minimise conflicts between different land uses within and surrounding the commercial centre.*

Clause 5.5.15(16) requires that *Car parking areas, including .... open expanses of pavement are to be shaded by landscaping and/or shade structures, where no shade structures are proposed for the car parking spaces, and landscaping will be 'low height planting'.*

Administratively, sub-clause (4) states *The consent authority may consent to a development that is not in accordance with sub-clause 16 if it is satisfied that the development provides an appropriate level of shading that reduces heat capture of paved surfaces, having regard to the location of the site and scale of the development.*

In response to sub-clause (4), this application is considered minor in scale, by virtue that only 6 car parking spaces are provided. In addition, it is noted that the two large canopies will provided shading for 630 m<sup>2</sup> of pavement, in which the majority of vehicles utilising the site will be parked.

Based on the above discussion, the proposed variation is clause 5.5.15 (Design in commercial and mixed use areas) is acceptable, as the scale of this application is minor in scale, and shading will be provided for the majority of vehicles utilising the development.

In response to clause 1.10(5)(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 NTPS 2020, except for the non-compliances as discussed above.

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- 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 subject lot is connected to reticulated power, water and sewerage, and is reasonably considered capable of supporting the proposed development. In addition, it is noted that no non-standard land capability concerns were identified by service authorities.

The Authority note that the conditions on the permit will reasonably address land capability concerns identified by the relevant service authorities.

- 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 impact on amenity should be considered in context of the site and its surrounds. The application is for the minor intensification of a development that has existed for some time as the subject site, and is reasonably expected in the locality. As such, the Authority considered that the application will not likely detract from the existing and future amenity at 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

14 February 2025