



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 352 – FRIDAY 20 MARCH 2020

**BROLGA ROOM
NOVOTEL DARWIN ATRIUM
100 THE ESPLANADE
DARWIN**

MEMBERS PRESENT: Suzanne Philip (Chair), Mark Blackburn, Marion Guppy, Simon Niblock and Peter Pangquee

APOLOGIES: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Dawn Parkes and Amit Magotra (Development Assessment Services)

COUNCIL REPRESENTATIVE: Cindy Robson and Conneil Brown

Meeting opened at 10.00 am and closed at 10.40 am

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 TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1

**PA2020/0025 SUBDIVISION TO CREATE FIVE LOTS
LOT 9077 (47) PROGRESS DRIVE, NIGHTCLIFF, TOWN OF NIGHTCLIFF
APPLICANT/S Elton Consulting Group Pty Ltd**

Mr Martin Klopper (Elton Consulting Group) attended via teleconference.

Mr Oliver Penman and Mr Geoff Thomas (DIPL) and Ms Sinead Redmond (HKS Solution Engineers) attended.

Ms Redmond tabled an email from City of Darwin in relation to public open space, tree sizes and landscaping maintenance.

**RESOLVED
40/20**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 9077 (47) Progress Drive, Hundred of Bagot for the purpose of a subdivision to create five lots, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment must be provided to the requirements of the City of Darwin to the satisfaction of the consent authority. The traffic impact assessment shall include an assessment of the potential risk for a collision at the Progress Drive/Phoenix street roundabout, as a result of increased U-Turn movements, resulting from this subdivision.
2. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the underground 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 connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected to the underground or an alternate approved connection.
3. 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 each lot from the City of Darwin road reserve, to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the landscaping works within the City of Darwin road reserve, to the satisfaction of the consent authority.
5. 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. The

plans must generally be in accordance with the plans submitted with the application but modified to show any changes required as a result of compliance with Conditions Precedent 1, 2, 3 and 4.

6. Prior to the commencement of works, a **Type 2** Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment and Natural Resources ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP should be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: das.ntg@nt.gov.au.
7. Prior to the commencement of works (including site preparation, the proponent is to prepare a Site Construction Management Plan (SCMP). The Plan is to address waste management, traffic control, haulage routes, stormwater drainage, and how Council land will be managed during construction, to the requirements of the City of Darwin.

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. All works recommended by the traffic impact assessment report are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.
10. All works relating to this permit must be undertaken in accordance with the endorsed **Type 2** Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority. Should the endorsed **Type 2** Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CEPSC) to the satisfaction of the consent authority. The revised ESCP should be submitted for acceptance to Development Assessment Services via email: das.ntg@nt.gov.au.
11. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. For further information refer to **Note 1** below. At completion of works, clearance should be sought from the Department of Environment and Natural Resources regarding satisfactory implementation of permanent erosion and sediment control measures and site stabilisation. To arrange a clearance site inspection, email the Land Development Coordination Branch at: DevelopmentAssessment.DENR@nt.gov.au.

12. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity facilities and telecommunications to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
13. 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.
14. 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.
15. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
16. Stormwater is to be collected and discharged into the drainage network to the technical standards of the City of Darwin to the satisfaction of the consent authority.

NOTES:

1. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at www.austieca.com.au and the Department of Environment and Natural Resources ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
2. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/wastepollution/guidelines/guidelines>. The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by DENR. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.
3. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network

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

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 which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
6. The Aboriginal Areas Protection Authority (AAPA) recommends that all works should be carried out in accordance with the Authority Certificates issued for the subdivision and development works.
7. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 8995 5354. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
8. All new roads, including alterations and extensions to existing roads, are required to be named under the *Place Names Act 1967*. You should immediately make application to the Place Name Committee to commence the road naming process. Contact the Place Names Unit on 08 8995 5333 or place.names@nt.gov.au
9. City of Darwin advise that:

The inclusion of street tree/s to the road reserve shall be carried out at full cost to the developer. As street trees will become an asset of City of Darwin, the developer shall provide Council specification for the purchasing of quality tree stock prior to construction. Specification for quality tree stock shall be submitted for approval to the satisfaction of City of Darwin.

The developer shall provide Council with a Plant Schedule for street trees indicating;

- root-ball container volume (litres),
- height of species (metres),
- calliper (millimetres), and
- details identifying the nursery supplying the tree stock.

Street trees shall be of advanced size to provide greater impact to the road reserve and the development. 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.

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.

The land is in Zone SD49 (Specific Use Zone Darwin No. 49) of the NT Planning Scheme (NTPS). The purpose of this zone is to facilitate the development of the land for a complementary mix of commercial, community and residential uses in mixed-use multistorey buildings with high amenity public areas. The proposed subdivision will facilitate future development on the land in accordance with the provisions of the zone. The subdivision proposes to create five lots which shall be developed with mixed-use multistorey buildings and a police station in the north-west area of the site. The subdivision also proposes to create a road reserve through the centre of the site which shall comprise of internal road, landscape areas and public open space. The proposed road reserve will make allowance for providing a potential vehicular and/or pedestrian access link to the Woolworths Shopping complex to the south. The subdivision is assessed compliant with the requirements of Zone SD49 due to the following:

- (a) *Clause 2(b) of Zone SD49 requires prioritising pedestrian and cycle access throughout the site and, where practicable, road linkages to the Nightcliff Village and Woolworths Shopping Centre.*

The subdivision provides a new road through the centre of the site which will make allowance for providing a potential vehicular and/or pedestrian access link to the Woolworths Shopping Complex to the south. The pedestrian/cycle link passing through the site is proposed to align with the pedestrian crossing located in front of the site (Progress Drive) which is retained and improved as part of the subdivision. The concept plan shows the pedestrian and cycle shared path is integrated within the public open space to separate from the vehicular traffic. This will facilitate and encourage safe pedestrian and cycle movement through the site. The applicant suggests that discussions are currently on-going with the owner of Lot 12279 (Woolworths site) to provide an opening to the proposed road reserve on to their lot to facilitate the vehicular access. However, at this stage, a resolution has only been reached on providing a pedestrian / cycle connection with no vehicular access.

At the hearing held on 20 March 2020 the Authority questioned the applicant regarding the egress of the proposed pedestrian/cycle path onto the Woolworths site located south of the subject site. The Authority noted that the concept plan shows that the proposed pedestrian/cycle path links into the car park area of the existing childcare centre located on Lot 12279, resulting in potential conflicts with vehicles reversing in the car park area. The applicant explained

that the location provided in the concept plan is just a concept, however to minimise the potential conflicts the pedestrian/cycle path can be aligned with the childcare building, in consultation with the landowner of Lot 12279, and will be considered during detailed design works. The applicant further explained that after the opening of vehicle access to the Woolworths site, the existing car park area will be removed and relocated to the proposed Lot C in the subdivision.

- (b) *Clause 2 (e) of Zone SD49 requires use of high-quality landscape and streetscape elements in the development.*

The assessment notes that the road reserve proposed through the centre of the site shall comprise internal road, landscape areas and public open space. The landscape master plan provided by the applicant proposes to create visually rich, high quality open spaces and streetscapes that maximise recreational opportunities and connectivity. As City of Darwin shall be the future service authority for the road reserve; therefore, all works within the road reserve are expected to be carried to the requirements of the City of Darwin. Comments received from the City of Darwin confirmed that all landscaping within the road reserve should be to the requirements of the City of Darwin. A condition is included on the development permit to ensure compliance with City of Darwin requirements.

- (c) *Clause 2(f) of Zone SD49 require street and building design, which demonstrates consideration of building mass, a balance between public and private space, concealment and acoustic treatment of plant and which reflects the Community Safety Design Guide (CSDG) principles.*

The 5447m² of road reserve (having width ranging from 38m - 34m) proposed through the centre of the site shall comprise of internal road, landscape areas and public open space. This will provide balance to future developments in terms of building massing. Matters related to concealment and acoustic treatment of plant etc. are considered during the development stage. The subdivision layout proposes to create a road reserve through the centre of the site (with public open space) with proposed lots fronting the road reserve. This promotes the CSDG principles as the future development on the proposed lots will provide passive surveillance of the public realm by residents on this site at any time of day and night. In addition, the shared pathway thoroughfare (connecting Progress Drive with the Woolworths site) through the public open space provides more activeness and surveillance of the open areas.

- (d) *Clause 3(c) requires the subdivision to provide traffic management to restrain vehicle speed, prioritise pedestrian and cycle paths over those for vehicles, deter through traffic and create safe conditions for all road users;*

The application demonstrates that traffic calming treatments shall be provided to pedestrian crossing points in the road network for the safety of the road users. A pedestrian friendly 'shared zone' is created between the two open space areas which shall provide a low speed

section to the vehicles entering the police station (Lot A) and vehicles entering and exiting Lot B1. In addition the concept plan shows the pedestrian and cycle shared path is integrated within the public open space to separate users from the vehicular traffic. This will facilitate and encourage safe pedestrian and cycle movement through the site. Matters related to the potential conflict of the pedestrians/cycle path egress with the car park area on the Woolworths site is discussed under reason 2(a) above.

- (e) *Clause 3(e) of Zone SD49 requires the subdivision to provide 10% of the area of the site (excluding the area intended for use as a police station) as public open space located in the central part of the site.*

The proposed subdivision requires 983.4m² of Public Open Space (POS) area, excluding Lot A intended for use as a police station and area of road reserve proposed through the centre of site. The assessment notes that the subdivision proposes 1920m² of POS within the road reserve proposed through the centre of the site, in two parts divided by the shared pedestrian road in the middle of the site (east-west orientation). The location and area of POS meets the central location and exceeds the minimum 10% requirement.

The Authority noted that the initial comments received from Council suggests that further discussions are required to take place regarding whether the POS should be located within its own lot, or placed within the road reserve. Council also suggested that if the discussions result in the POS required to be located within a separate lot, an amended plan showing the POS as a separate lot should be provided.

At the hearing, Ms Sinead Redmond (HKS Solution Engineers) tabled an email from City of Darwin in relation to the POS, tress sizes and landscaping maintenance. The email states that Council would prefer that the proposed POS is within the road reserve and not within its own lot. Furthermore, Mr Conneil Brown of City of Darwin confirmed at the hearing that following discussions with their Parks Maintenance Unit that the POS could be better managed within the road reserve.

The Authority notes that the NTPS and relevant Area Plan does not provide any guidance for the provision of POS within a road reserve as it is typically to the requirements of the relevant service authority (City of Darwin in this instance) and provided that the proposed POS complies with their requirements, it is considered that it satisfies the purpose of the NTPS and Area Plan.

2. Clause 2.7 (Reference to Policy) of the NTPS states that the interpretation of the Planning Scheme and the determinations of a consent authority must have regard to the policies and planning concepts expressed in those documents appearing in Part 8 or Schedule 2 and ensure that a use or development or proposed use or development is consistent with them.

Schedule 2 of the NTPS makes reference to eleven policy documents. The subject site is within the Darwin Mid Suburbs Area Plan (Area Plan) and as such is a key policy document that applies to the development of this site and surrounding locality.

The Area Plan envisages the site be developed for mixed use residential and social service related activities complemented by open space and a range of community infrastructure including landscaping and shade awnings and a pedestrian, cycle and if possible, a vehicular link through the site to the Woolworths supermarket on the adjoining lot to the south.

The assessment notes that the provisions of the Area Plan has been considered and adopted in the recent Planning Scheme Amendment for the rezoning of the site to SD49 which responds to strategic framework for the development on this site in accordance with the Area Plan, particularly in its promotion of mixed use development complemented by open space and active street networks with connections to surrounding locality. The subdivision is assessed compliant with the requirements of Zone SD49. Therefore, it is considered that it also complies with the requirements of the Area Plan.

The Area Plan provides for a pedestrian/cycle link through the centre of the site, and a vehicular link along the eastern boundary, to Woolworths supermarket on the adjoining lot to the south. The assessment notes that the subdivision, however, proposes to provide only one link (through the middle of the site) which will provide a pedestrian/cycle link and potential future vehicular access to the Woolworths supermarket on the adjoining lot to the south. Discussions with Lands Planning on this matter suggest that this is acceptable in its current form as it meets the objectives and the Area Plan can be updated to reflect any changes so that it is consistent with the approved development going forward.

3. 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. Also, pursuant to section 51(m) of the *Planning Act 1999*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The subdivision accords with the current zoning and will facilitate the development of the site for a mix of residential, commercial and community uses (including a new police station). The site is not impacted by the secondary storm surge and is also outside of the Australian Noise Exposure Forecast (ANEF) contours associated with Darwin International Airport. Any future applications for built form on the subject land and the effect of that future development on the land

and on surrounding sites will be subject to consideration of the Zone SD49 requirements of the NTPS at that time.

The proposed subdivision is of a site with existing reticulated power, water, sewer and telecommunication services. Comments received from service authorities require services upgrades to facilitate the future development on proposed lots which are addressed by conditions on the permit.

4. 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 proposed subdivision will facilitate the redevelopment of John Stokes Square in accordance with the aspirations of the Darwin Mid-Suburbs Area Plan and Zone SD49 (i.e. a mix of commercial, community, residential and public open space). The subdivision is assessed compliant with the provisions of Zone SD49, and accordingly can be considered as being consistent with the intended future amenity of the area, in terms of the land uses, open space and road layout. The subdivision will improve the interconnectivity within this area, with improved pedestrian and cycle paths, along with improved landscaping and urban design. The subdivision will maximise the value of existing infrastructure through the redevelopment of an existing serviced urban lot in an established activity centre.

Provided the development proceeds in accordance with the conditions on the development permit, no impact on the amenity of the land is anticipated.

ACTION: Notice of Consent and Development Permit

ITEM 2

PA2020/0016

WAREHOUSE WITH AN ANCILLARY OFFICE IN A SINGLE STOREY BUILDING

SECTION 7734 (26) VAUGHAN STREET, BERRIMAH, HUNDRED OF BAGOT

APPLICANT/S

George Savvas

DAS tabled further comments from the submitter.

Mr George Savvas (Concept Designs NT) and Mr Steven Koukouvas (owner) attended.

Submitter Mr Stuart Johnson attended.

**RESOLVED
41/20**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Section 07734 (26) Vaughan Street, Hundred of Bagot for the purpose of warehouse with an ancillary office in a single storey building, subject to the following conditions:

CONDITIONS PRECEDENT

1. 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.
2. 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 is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land during construction.
3. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Policy 054, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.
4. Prior to commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication network services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
7. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
8. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
9. The kerb crossings 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.

10. 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.
11. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed 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 spaces, access lanes and driveways must be kept available for these purposes at all times.
12. 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.
13. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
14. The loading and unloading of goods from vehicles must only be carried out on the land and within the designated loading bays, to the satisfaction of the consent authority.
15. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
16. 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.
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 to the requirements of the City of Darwin, to the satisfaction of the consent authority.
18. External lights must be designed, baffled and located to the satisfaction of the consent authority to prevent any adverse effect on adjoining land, roads, and on the operation of the RAAF Base Darwin and Darwin International Airport.

NOTES:

1. 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.
2. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
3. City of Darwin advises that designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by the General Manager Infrastructure, City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. City of Darwin advises that a pedestrian path is to be provided within the road reserve adjacent to the subject site.
5. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.
6. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport and the Department of Defence 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.
7. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All structures, including temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.
8. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
9. The development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021).
10. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.

11. 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>.
12. 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 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.

The land is located in Zone SD42 of the NT Planning Scheme (NTPS) of which the purpose is to facilitate the development of the land for light industrial purposes that minimise the impacts from exposure to aircraft noise, and that does not inhibit the operation of the Darwin International Airport. The zone comprises of Areas 'A' and 'B' (based on ANEF contour) with the subject site located within the Area A of the zone. The development is consistent with the purpose of Zone SD42 due to the following:

- The proposed development is not listed as a prohibited use within the Area A of the zone;
- The development is located within 20 – 25 ANEF (Australian Noise Exposure Forecast) having light industry as acceptable uses.
- The maximum building height of the proposed development is 8m. This is less than the *Defence Regulations 2016* height limit of 15m in this location.

Furthermore, Zone SD42 provides that development can occur with consent and in accordance with the provisions of Zone LI (Light Industry). The proposal is assessed fully compliant with the Zone LI, including:

- Providing parking spaces, parking layout and loading bay fully compliant with Clause 6.5.1 (Parking Requirements), Clause 6.5.3 (Parking Layout) and Clause 6.6 (Loading Bays);
- Providing a front setback of 3m (with landscaping across the frontage), rear setback of 5m and one side setback exceeding the minimum requirement of 5m required under Clause 9.1.1 (Industrial Setbacks).

Advice has been received that the height of the building is within the range accepted by the Department of Defence and Darwin International Airport given the controls in place for the safeguarding of airspace. Notes are included on the development permit which provide advice to the developer regarding any separate approvals required for cranes, lighting controls and acoustic treatments which will need to be met, with these being a developer responsibility.

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

One public submission was received during the exhibition period under Section 49 of the Act with respect to the proposal. The submission was received from the owner of the neighbouring lot (Section 7733) adjoining the southern boundary. The submitter raised concerns regarding driveway and parking provided along the southern boundary in the proposed development. The submitter comments that the driveway and parking of his development are on the opposite side of the southern boundary, which will create privacy issues. The submitter suggested that flipping the design of the proposed development to provide zero setbacks along the southern boundary would provide more privacy.

Following the receipt of the submission, the applicant provided an amended plan showing the design flipped as the submitter suggested, with zero setbacks to the southern boundary. The applicant clarified (verbally) to the Development Assessment Services (DAS) that due to the existing PWC (water) rising main located on the front boundary the proposed design would have a driveway width of 4.9m rather than 6m required pursuant to Clause 6.5.3 (Parking Layout) of the NTPS.

Further amended plans were therefore provided by the applicant with the layout of the development similar to the original design but modified to show the new location of the crossover (3m away from the southern boundary), with minor adjustments to the car parking to match the revised crossover location and addressing non-compliances identified in original plans. These plans were circulated to the submitter with additional comments received reiterating concerns raised in his original submission.

At the hearing held on 20 March 2020, Mr Savvas explained to the Authority that the Power and Water Corporation (Water Services) has advised that relocating the driveway adjacent to the water main would require the placing of bollards and a concrete platform to protect the water rising main. This would result in a driveway width of 4.9m rather than the 6m required pursuant to Clause 6.5.3 (Parking Layout) and that DAS had verbally advised this would not be supported. The design was therefore flipped back to the other side of the lot, similar to the original design with the exception of locating the driveway 3m further away from the southern boundary.

In addition to his written submissions, Mr Johnson also addressed the Authority at the hearing. Mr Johnson reiterated the concerns raised in his written submissions and stressed that flipping the design to provide zero setbacks along the southern boundary will allow more privacy to both developments. Mr Johnson mentioned that notwithstanding there is a water rising main along the front boundary of the subject site, the design of the development could be altered to achieve compliance with the requirements. Mr Johnson stressed that because both businesses are in the same industry attracting similar customers and clients, the privacy issue is his main concern.

The Authority noted both the concerns of the submitter and the comments made by the applicant. The Authority noted that the amended plans with a layout similar to the original design, but modified to show the new location of the driveway (3m away from the southern boundary), with minor adjustments to the car parking and crossover location were assessed as fully compliant with the requirements of Zone SD42. The Authority further noted that the proposed development is located 11m from the southern boundary.

The Authority explained that the proposed development has to be assessed against the requirements of the *Planning Act 1999* and the NT Planning Scheme and that the Authority is otherwise limited in what matters it can consider. The proposed development is assessed as fully compliant with the Zone SD42 requirements, and the Authority has no powers under the *Planning Act 1999* to require amendments to the design to address potential issues of commercial competition and privacy. The Authority, while acknowledging the concerns of the submitter, suggested that there could be potential measures that the adjoining landowners could undertake, such as providing a solid screen fence along the common side boundary, which would increase privacy. The submitter acknowledged that this is something he will discuss with the adjoining landowner.

3. 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. Also, pursuant to section 51(m) of the *Planning Act 1999*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The capability of the land has been previously considered through the specific use zoning SD42 which requires for development to respond to the constraints of the land due to the proximity of the Darwin Airport, including with regard to the range of uses anticipated, aircraft noise, building heights and lighting as previously discussed. Comments were received from the Department of Defence and Darwin International Airport in relation to these impacts and conditions and notes are included on the development permit as required.

The lot is flat and cleared. The recently constructed subdivision has ensured that the lot is situated above the 1% AEP flood event, and would allow for the anticipated access, stormwater and servicing requirements for the land. Service authority requirements have been addressed through the inclusion of standard conditions on the development permit relating to construction, waste, stormwater, and access controls.

4. 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 development will result in a change in the amenity of the area as the land is currently undeveloped. The development, however, is broadly consistent with the zoning and the anticipated future development of the area. No undue amenity impacts are expected as a result of the development.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair
24 March 2020